



1 Wednesday Session, March 6, 2002, at 8:30 A.M.

2 (Proceedings in the absence of the jury:)

3 MR. TRAFICANT: Your Honor --

4 THE COURT: Yes, sir.

5 MR. TRAFICANT: -- I'd like to address the  
6 bench. I've conferred with counsel and yet been able to  
7 make contact with the witness to be deposed. Now, I've  
8 talked to them about the prospects of deposing that person  
9 because of the medical situation at an earlier time on  
10 Friday, which would require that we would not have session  
11 Friday.

12 They did not object, and they have yet to arrange  
13 anything with him, and they're attempting to make  
14 arrangements near his home under doctor's supervision. So  
15 I am making that request. They have not objected, but I do  
16 understand -- but I'd like to say that we have talked, and  
17 we have moved pretty expeditiously in the last round of  
18 witnesses.

19 And they're beginning to both share our witness list  
20 and give advance notice to be prepared in trying to move as  
21 fast as we can.

22 So I am requesting that that deposition be held at a  
23 convenient time under doctor's supervision, which would  
24 also give us time to not only travel, but to be there on  
25 time and for them to make the arrangements. The

1 arrangements for the facility's not yet been made. They  
2 have not yet contacted, from what I understand, the  
3 cardiologist. They have not yet contacted the witness to  
4 be deposed, and here we are, and this is Wednesday, and  
5 that is my --

6 THE COURT: I think this issue arose  
7 yesterday that we're addressing.

8 MR. TRAFICANT: We talked about it, yes.

9 THE COURT: We talked to the physician  
10 yesterday afternoon, I think. Are we talking about the  
11 same witness?

12 MR. TRAFICANT: No -- yes.

13 THE COURT: Okay. All right. And there was  
14 a suggestion from the -- one of the physicians who we had a  
15 letter from suggested that a cardiologist be contacted, and  
16 so that will be done. Once we have that done and once we  
17 know what's there, we can figure out the schedule, but I'm  
18 not inclined to cut off a half day of jury work and give  
19 you a free afternoon when we should be working to move this  
20 case forward.

21 This is one of the cases in this court. This is not  
22 the only case, and we have a jury impaneled. So I think we  
23 should go forward under our normal schedule, unless there's  
24 a reason why we can't schedule this witness, and we need  
25 not use up a morning or some other time other than Friday

1           afternoon.

2                         MR. TRAFICANT: Well, I'd like to place on  
3           the record the fact that after we concluded our morning's  
4           schedule, I would then have to travel all the way and be  
5           preparing through this period of time for this particular  
6           witness. I understand that, but with the traffic and  
7           everything, pursuant to the schedule that we have, it could  
8           be difficult. And it's going to be hard to make a time  
9           frame like that that we've talked about.

10                        THE COURT: Okay. We'll see what's possible,  
11           but first we have to talk -- I have to leave it to the  
12           Government to talk to the cardiologist and see what the  
13           needs of the person to be deposed are. We can talk about  
14           that again at the appropriate time when we have the morning  
15           break.

16                        MR. TRAFICANT: Second issue that I have  
17           brought and given to the Prosecution, as well as to you,  
18           the generic file of Thomas Williams, so that I can place it  
19           on the record here.

20                        THE COURT: Fine. I've been asking you for  
21           that, and I have it. I've had an opportunity to look at --  
22           I know you refer to it as a generic file, and so we'll give  
23           it a number of some kind.

24                        MR. TRAFICANT: I don't know if we've already  
25           given it some number during the deposition, and I would

1 like to maintain the same number.

2 MR. KALL: I believe it was Number TW-1.

3 THE COURT: Deposition Number TW-1, right.

4 MR. TRAFICANT: No. This is the personnel,  
5 record personnel record TW-1.

6 THE COURT: Okay. Is that going to  
7 adequately identify this, TW-1.

8 MR. MORFORD: Yes, your Honor.

9 THE COURT: Then it'll be called TW-1, and  
10 I've had a chance to look at the papers here. Okay?

11 MR. TRAFICANT: Would it be appropriate --  
12 we'd have to wait until we see it first before we can move  
13 it to be admitted as an exhibit. Would that be correct?

14 THE COURT: Oh, I don't know. If you want  
15 it -- if they want it -- if you want to move it as an  
16 exhibit now, the jury's not here.

17 MR. TRAFICANT: I move that it be an exhibit  
18 in the case, TW-1.

19 THE COURT: Any objection?

20 MR. KALL: We have no objection.

21 THE COURT: Okay. So this will be  
22 defendant's TW-1. Okay. Now, let me read out an order  
23 that I prepared after I received this this morning so that  
24 we can go forward with the next things here. We'll hand  
25 down a copy of this order as I now read it out loud so the

1 record will reflect it.

2 This is an order regarding the defendant's motion to  
3 delay the playing of the Williams video deposition.

4 Before the Court is Defendant Traficant's motion to  
5 delay the playing of the video deposition of Thomas  
6 Williams. That's docket Number 217. Pursuant to the  
7 Court's 15 February 2002 order, which is docket 200, Thomas  
8 Williams was deposed in Cape Canaveral, Florida, on 28  
9 February 2002. Defendant Traficant participated in the  
10 deposition and took advantage of his opportunity to  
11 cross-examine Mr. Williams. The deposition was videotaped  
12 for use at trial.

13 Defendant Traficant seeks to delay the playing of the  
14 video deposition at trial until he receives the complete  
15 personnel file of Mr. Williams from the Ohio Department of  
16 Transportation pursuant to a subpoena. Defendant Traficant  
17 estimates that the delay would last approximately two  
18 weeks. Thomas Williams is referred to by name in Count 1  
19 of the original indictment of 4 May 2001, which is docket  
20 Number 1, and in Count 1 of the 26 October 2001 superseding  
21 indictment, which is docket Number 68. Defendant  
22 Traficant, therefore, has known that Mr. Williams could be  
23 called by the Government as a witness for ten months.  
24 During that lengthy period, Defendant Traficant could have  
25 utilized the subpoena power of the Court to obtain whatever

1 sections of the personnel files may be lawfully released.

2 However, Defendant Traficant waited until 25 February  
3 2002, in the third week of trial, to subpoena these  
4 records.

5 In spite of repeated requests by this Court, the  
6 Defendant failed to make available to the Court and to the  
7 Government copies of the documents he has already received  
8 from chief legal counsel of the Ohio Department of  
9 Transportation until the morning, today, the 6th of March  
10 2002, the day on which the Government proposes to play the  
11 video deposition.

12 The documents Defendant Traficant has received number  
13 approximately 67 pages. Under these circumstances, this  
14 Court will not delay the Government's presentation of the  
15 video deposition of Thomas Williams. The defendant's  
16 motion to delay the playing of the video deposition is  
17 denied.

18 So for those reasons, the Government may proceed with  
19 the playing of the Williams video deposition. Any  
20 objections regarding the videotape testimony should have  
21 been made during the deposition or during our discussions  
22 of objections out of the presence of the jury on March 4th  
23 and 5th.

24 So I want to caution counsel and the Pro Se Defendant  
25 not to interrupt the presentation of the video deposition

1 with objections. We can bring out the jury.

2 (Proceedings resumed in the presence of the jury:)

3 THE COURT: Mr. Kall?

4 MR. KALL: Your Honor, at this point, we  
5 would like to play the deposition.

6 THE COURT: Ladies and gentlemen, I want to  
7 give you a brief instruction at this time. There will be a  
8 video tape deposition played. It's of Mr. Thomas Williams.  
9 It's being played for you because Mr. Williams is unable --  
10 unavailable to testify in person due to illness.

11 Mr. Kall and Mr. Traficant asked Mr. Williams  
12 questions during a deposition that they took for trial, and  
13 that deposition was videotaped so you would be able to view  
14 it as well as hear it.

15 Did they get transcripts?

16 MR. KALL: We do, your Honor.

17 THE COURT: We'll give you each a transcript  
18 of this video so you can follow along. I want you to know,  
19 though, that you should treat this deposition by  
20 Mr. Williams, this testimony as if it were testimony of a  
21 witness here in the courtroom. He's sworn before he  
22 testifies, and you'll get a transcript just so you can  
23 follow along if you wish to do so. Okay? Thank you.

24 (The following video was played before the jury:)

25 THE VIDEOGRAPHER: This is case Number

## Williams Depo

1 401CR207, the videotape deposition of Thomas Williams,  
2 taken in the matter of United States of America versus  
3 James Traficant, Junior, held at 8701 Astronaut Boulevard,  
4 Cape Canaveral, Florida, taken on February 2 -- 28th, 2002,  
5 at 1:56 p.m. the Court Reporter is Lucia Hayworth from the  
6 firm Renaissance Reporting.

7 THE COURT: It's very hard to hear. Can't  
8 hear it at all. We can't hear it at all. Just stop, and  
9 take it back. Everybody, relax and see if we can get it so  
10 you can hear. Can you rewind it?

11 MR. MORFORD: Yes.

12 THE VIDEOGRAPHER: This is Case No. 4:01CR  
13 207, the videotaped deposition of Thomas Williams, taken in  
14 the matter of United States of America versus James A.  
15 Traficant, Jr., held at 8701 Astronaut Boulevard, Cape  
16 Canaveral, Florida, taken on February 2 -- 28th, 2002, at  
17 1:56 p.m. The court reporter is Lucia Hayworth, from the  
18 firm, Renaissance Reporting. I'm David Sime, Certified  
19 Legal Videographer, from David Sime Productions.

20 MR. TRAFICANT: Could you repeat your  
21 name and Lucia's name?

22 THE VIDEOGRAPHER: David Sime, S-I-M-E.

23 THE COURT REPORTER: Lucia Hayworth,  
24 L-U-C-I-A, H-A-Y-W-O-R-T-H.

25 MR. TRAFICANT: The reporter and --

## Williams Depo

1 THE VIDEOGRAPHER: Cameraman.

2 MR. TRAFICANT: Okay, fine.

3 THE VIDEOGRAPHER: Will Counsel --

4 MR. TRAFICANT: What company is that,

5 by the way?

6 THE VIDEOGRAPHER: David Sime

7 Productions.

8 MR. TRAFICANT: David Sime Productions.

9 Okay. Here in Orlando?

10 THE VIDEOGRAPHER: And Renaissance,

11 Reporting.

12 MR. TRAFICANT: And Renaissance

13 Reporting, and you're located here in...

14 THE COURT REPORTER: Melbourne.

15 MR. TRAFICANT: In Melbourne, Florida,

16 okay.

17 THE VIDEOGRAPHER: Will Counsel please

18 introduce themselves, and will the court reporter please

19 swear in the deponent.

20 MR. KALL: Matthew Kall, for the United

21 States.

22 MR. MORFORD: With Craig Morford for

23 the United States Attorneys Office for the Northern

24 District of Ohio. Bob Blons from the FBI.

25 MR. TRAFICANT: Pro se defendant, James

Williams Depo

1 A. Traficant, Jr., from Youngstown, Ohio.

2 THE COURT REPORTER: Mr. Williams, would you --

3 THE WITNESS: Tom Williams.

4 THE COURT REPORTER: Would you please  
5 raise your right hand to be sworn --

6 THE WITNESS: Pardon me?

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## Williams Depo

1 THOMAS WILLIAMS,  
2 of lawful age, a witness called by the GOVERNMENT,  
3 being first duly sworn, was examined  
4 and testified as follows:

## 5 DIRECT EXAMINATION OF THOMAS WILLIAMS

6 BY MR. KALL:

7 Q. Would you please state your name?

8 A. Thomas L. Williams.

9 Q. Mr. Williams, where do you live?

10 A. At -- in Ohio at 1039 Bristol Champion Townline Road,  
11 Bristol, Ohio, 44402.

12 Want my address down here?

13 Q. Sure.

14 A. My address in Florida is 7605 Ridgewood Avenue, Cape  
15 Canaveral, Florida, 32920.

16 MR. TRAFICANT: Pardon? 329...

17 THE WITNESS: 32920.

18 MR. TRAFICANT: 20.

19 THE WITNESS: Yeah.

20 BY MR. KALL:

21 Q. You split time between Youngstown and Cape  
22 Canaveral.

23 A. Yes.

24 Q. Do you currently work, Mr. Williams?

25 A. No, I'm retired.

## Williams Depo

1 Q. How long have you been retired?

2 A. Since 1996, July, 1996.

3 Q. What did you do before that?

4 A. Worked for the Highway Department of Transportation  
5 for 35 years. I worked for the government of Kuwait for  
6 four years. Immediately before I retired I was a fuel  
7 engineer and an assistant construction engineer for the  
8 Highway Department of Transportation, District 4.

9 MR. TRAFICANT: Could you repeat that  
10 slowly?

11 THE WITNESS: I was a fuel engineer and  
12 assistant construction engineer for ODOT, District 4.

13 BY MR. KALL:

14 Q. Where is ODOT, District 4; what does that cover?

15 A. Six counties in northeastern Ohio. The main office is  
16 in Urbana. It covers Ashtabula, Summit, Stark, Portage,  
17 Mahoning, and Trumbull.

18 Q. What were your duties there?

19 A. To represent the deputy director and the  
20 construction engineer on contract administration through  
21 all six counties, essentially.

22 Q. What did you do to represent them?

23 A. Fuel work. We visited projects to ensure that the  
24 contractors were complying with the specifications, the  
25 written contract, and then our inspectors and project staff

## Williams Depo

1 was doing what they're supposed to be doing, and ensure  
2 among other things the contracts were paid, paid on time,  
3 project got final on time, contracts made proper, the  
4 contractors made the proper progress and completion of the  
5 projects, in general, contract administration for every  
6 aspect of it.

7 Q. What types of contract specifications do you mean?

8 A. Every project's let with a set of specifications that  
9 are part of the contract. There's a spec book that tells  
10 you how the work is to be done under each item, the methods  
11 to do the work, the material approvals that must be  
12 attained, the completion dates. The contract consisted of  
13 a proposal which has the amount paid for each item of  
14 work, the conclusion date, various items on how you  
15 maintain traffic. It's in all three sections of the  
16 contract, really.

17 Q. During the time that you worked for ODOT, were you  
18 involved in the process of prequalifying contractors to bid  
19 on contracts?

20 A. No, I wasn't.

21 Q. What about the process of awarding bids to bidders?

22 A. No, sir.

23 Q. Are you familiar with a company that was run by the  
24 Bucci Brothers?

25 A. Bob Bucci and Anthony Bucci and Danny Bucci was



## Williams Depo

1 actually -- Danny was the president, but he really didn't  
2 have much to do with what I could see with running the  
3 company.

4 Q. You said that there were a series of different  
5 companies; was -- you said that there were a number of  
6 different companies. Was this one in a row, or was there  
7 more than one in a series?

8 A. I think Asphalt Specialists existed about the same  
9 time that Cheryl Bucci, Incorporated existed. But it was  
10 Bucci Brothers, and they became disqualified because of --  
11 the Federal Government disqualified them, and then they,  
12 shortly after the disqualification, came back with Asphalt  
13 Specialists, Incorporated.

14 Q. Are you familiar with the name Prime Contractors?

15 A. Prime Contractors, Incorporated was another name that  
16 they had -- they went under, yes.

17 Q. What was the Bucci Brothers' reputation?

18 A. Bad.

19 Q. Why?

20 A. They would get a project, they were bad maintaining  
21 traffic. They had absolutely no, for the most part, no  
22 idea on how to maintain traffic, or no interest in it, no  
23 interest in the traveling public. They'd get done with  
24 projects late many times. You had that -- the project  
25 engineers had to be on their back constantly to get them to

## Williams Depo

1 maintain any semblance of contracts' requirements, and  
2 they'd try to browbeat our project engineers to the point  
3 that actually most of our staff wouldn't go on a project  
4 if you'd assign them to be on one of Bucci Brothers'  
5 projects.

6 MR. TRAFICANT: Did they say -- you say  
7 bribe?

8 THE WITNESS: Bribe --

9 MR. TRAFICANT: I missed your last  
10 answer.

11 THE WITNESS: I said they browbeat.

12 MR. TRAFICANT: Oh. The Buccis would  
13 browbeat.

14 THE WITNESS: Would browbeat our  
15 inspection staff.

16 BY MR. KALL:

17 Q. Did you ever have problems with them in the types of  
18 materials that were used?

19 A. I had many problems with them in getting them to  
20 comply with material requirements.

21 Q. What do you mean by that?

22 A. The asphalt -- they have a mix that asphalt is  
23 required to meet the specifications, and give you mix. The  
24 inspection head staff had to be on them constantly to get  
25 them to meet the specification. Many times they didn't.

## Williams Depo

1       There was a committee, the DH17C Committee, which what it  
2       does, it allows material to stay in place, but at a reduced  
3       rate, and we had many, many instances that their material  
4       was allowed to be left in place, but at a reduced rate.

5       Q.    Did you ever have problems with the Buccis cheating on  
6       the amounts of materials that were used on a job site?

7       A.    I never did because you couldn't.  With ODOT we had to  
8       make cross-checks that we never had particularly any  
9       problem with them that I'm aware of cheating because we'd  
10      calculate the materials, we checked the delivery tickets.  
11      If you didn't do all this, I'm sure that other  
12      organizations may have had the problem, but we didn't.

13      Q.    Okay.  When these types of problems would arise, you  
14      mentioned trouble with them closing certain roads, or not  
15      starting or finishing on time; what effect would that have  
16      on ODOT's ability to do its work?

17      A.    We couldn't do our work because the idea is  
18      cooperation between the contractor and the inspection  
19      staff on the project, and the staff in Urbana, and in  
20      Columbus.  And if a contractor absolutely refuses to  
21      comply with the specifications, the project engineer  
22      can't throw himself down in front of a paver, and he  
23      can't really -- if he absolutely refuses to do what    you  
24      tell him, there's really not much you can do, not at their  
25      level.  There's not real much they can do.

## Williams Depo

1 MR. TRAFICANT: That's the project  
2 engineer?

3 THE WITNESS: Yes.

4 BY MR. KALL:

5 Q. What would the overall result be on the quality of  
6 work?

7 A. It was poor quality. Most of the work they did was  
8 poor quality, not all of the work they did, by any means,  
9 but much of the work they did was poor quality.  
10 Occasionally they did a job that was fairly decent quality.

11 Q. Whenever you would find that the Buccis were doing  
12 something that you believed to be improper, what did you  
13 do?

14 A. The project engineers many times called me. I'd visit  
15 the project, meet with either Tony or Bob, have a big  
16 argument, and attempt to get it straightened out. And  
17 sometimes it did stay straightened out for a couple of  
18 days, and would revert right back to the -- what really  
19 bothered me about these people is they could do good work.  
20 They had the best equipment. They had all kinds of -- but  
21 they weren't interested in doing good work.

22 Q. Are you aware of the Buccis ever going over your head?

23 A. Many times they went over my head.

24 Q. To whom?

25 A. To the deputy director. They could go over my head to



## Williams Depo

1 the deputy director -- well, first they'd go to the  
2 construction engineer who normally would back me, the  
3 deputy director, who sometimes backed us and sometimes  
4 didn't. If that didn't work, they'd go to Columbus and try  
5 down there.

6 Q. Who was the deputy director at the time?

7 A. Dave Dreger, at this time.

8 THE COURT REPORTER: Could you please  
9 repeat that?

10 THE WITNESS: David Dreger, D-R-E-G-E-R.

11 MR. TRAFICANT: The deputy director was  
12 David Dreger?

13 THE WITNESS: Yes.

14 BY MR. KALL:

15 Q. Have you ever spoken to Congressman James Traficant  
16 regarding the Buccis?

17 A. I had a telephone conversation one day with him that  
18 Bob Bucci called me regarding a paving project on Mosquito  
19 Creek Road of Trumbull County.

20 Q. Approximately when was this?

21 A. 1995, May -- mid to late May, 1995, before Memorial  
22 Day weekend, I know.

23 Q. What was this project for?

24 A. For paving access roads and campsites, and the access  
25 road to the fishing piers on Mosquito Lake Reservoir.

## Williams Depo

1 Q. What was your role in this project?

2 A. I was a fuel engineer, I was the assistant  
3 construction engineer. And actually I wasn't the fuel  
4 engineer in Trumbull County. I was the assistant  
5 construction engineer, and the fuel engineer in Trumbull  
6 County came to me and asked me to -- what he should do.

7 Q. Where were you when this occurred?

8 A. I was in Ravenna.

9 Q. You mentioned --

10 THE COURT REPORTER: Sir, I'm sorry, the city  
11 that --

12 THE WITNESS: Ravenna, R-A-V-E-N-N-A.

13 MR. KALL: That's okay.

14 BY MR. KALL:

15 Q. You stated that you received a telephone call from  
16 Congressman Traficant, right?

17 A. I received a telephone call from Robert Bucci.

18 Q. Okay.

19 A. We talked about this project, and me not allowing them  
20 to pave on the Memorial Day weekend.

21 Q. What was your position on that?

22 A. My position was they weren't going to pave on the  
23 Memorial Day weekend. It was inconvenient, probably 5 or  
24 600 campers at least, plus maybe 2 or 3,000 people wanting  
25 to use the park on that weekend, which is the first holiday

## Williams Depo

1 weekend in the summer. And they weren't going to pave.

2 Q. What was he telling you?

3 A. He was telling me he was going to pave, and that I was  
4 picking on them, and that -- singling them out for  
5 persecution, and they always did this to them, and...

6 Q. And this was Robert Bucci, correct?

7 A. Robert Bucci, right.

8 Q. Did there come a time when you spoke to Congressman  
9 Traficant regarding this?

10 A. Robert Bucci -- we had some discussion that -- the  
11 last thing I told Bob was, all I want you to do is act like  
12 any other contract in the State of Ohio. Nobody else that  
13 I know of would want to pave a state park on a holiday  
14 weekend, and Mr. Bucci said, here it is. Somebody wants to  
15 talk to you, and Congressman Traficant got on the line.

16 Q. How did you know it was Congressman Traficant? Did  
17 he identify himself?

18 A. I heard him speak a few times. I've heard him on the  
19 radio hundreds of times, and he has a voice -- an inflexion  
20 in his voice that's very difficult to -- I'm not sure  
21 anybody could do the same things he does.

22 Q. What did Congressman Traficant say?

23 A. Essentially, I had no right to do this. I was picking  
24 on his friends, that somewhere along the conversation he  
25 was going to have a meeting, and have my job, and I told

## Williams Depo

1 him I'll meet with you any time you want to meet with me.

2 He says, I don't want to meet with you. I won't meet with  
3 you. I don't want to meet with you. I'll meet with the  
4 director or the governor.

5 Q. The director of...

6 A. The Department of Transportation.

7 Q. What was the tone of his voice at that time?

8 A. It was threatening, maybe not to him, but to anybody  
9 else.

10 Q. Prior to this, had you ever been advised of the nature  
11 of the relationship between Congressman Traficant and the  
12 Buccis?

13 A. Bob Bucci is a man of great pride, but he'd tell  
14 people how close him and Congressman Traficant were, and  
15 Tony the same thing.

16 Q. You said, I believe, that you were told that you had  
17 no right to do this. Did you have a right to do this?

18 A. I have a right -- the No. 1 right on any project is  
19 the protection of the traveling public and the convenience  
20 of the traveling public. Based on that, I did have a right  
21 to do it, based on the fact that you must put down tack  
22 coat before you can pave. They had no approved tack on the  
23 job. I had every -- not only a right, but a duty to do it  
24 in both cases. The first thing of importance on any State  
25 project is, or damn well should be, the traveling public.



## Williams Depo

1 Those are the people that pay for the job, and the only  
2 reason we have the job is because of them.

3 Q. How was the dispute resolved?

4 A. They didn't pave.

5 Q. Did Congressman Traficant ever contact you on behalf  
6 of another local contractor during your career with ODOT?

7 A. No.

8 Q. When did you retire from ODOT?

9 A. July, 1996.

10 Q. Did you work anywhere after that?

11 A. Yeah, I consulted -- I was a consulting engineer for  
12 quite a few contractors.

13 Q. And you've done that in the Youngstown area?

14 A. Yeah.

15 Q. Did you ever work for Hardrives Paving?

16 A. Yes.

17 Q. Who was that company --

18 A. I was the consultant.

19 Q. Okay.

20 A. Never directly for Hardrive -- as a consultant.

21 Q. How -- I'll get you the spelling later.

22 MR. TRAFICANT: You were a consultant at  
23 Hardrives?

24 THE WITNESS: Yes.

25 BY MR. KALL:



## Williams Depo

1 Q. For what period of time did you work for Hardrives?

2 A. Approximately a month.

3 Q. Why did you leave?

4 A. We were at the airport. The airport had -- No. 1, I  
5 was a registered engineer. It was a requirement to get the  
6 airport contract that they have a registered engineer as a  
7 consultant on their staff. I left -- well, they had many  
8 plan requirements, like paving sequences and times you had  
9 to have things done. And I attempted to get him to  
10 comply with the plan requirement, and it wasn't  
11 happening.

12 They just -- when I was there, things might  
13 be okay. But I'd leave and things would -- I mean, they  
14 would do what they wanted to do. This was being done using  
15 my license. And based on this, I told Jimmy Sabatine's  
16 sister, who was the -- he wasn't around very often, but his  
17 sister was on the project, that was the last I was there.  
18 I told her I was not doing any good on this project, and  
19 there's no way I can do anything, so I quit. And the  
20 reason I know, I was working for \$50.00 an hour, and I  
21 called them for my 1099, and the 1099 amounted to about  
22 \$2,000, so that would be about forty hours I worked for  
23 them. Part of this forty hours was plan review and things  
24 like this, so I actually didn't work on the airport  
25 project even a week before I quit.



## Williams Depo

1 Q. And you currently live in between Youngstown and Cape  
2 Canaveral, correct?

3 A. Yes.

4 Q. Are you currently undergoing any medical treatment?

5 A. I cer -- yes, for --

6 Q. What are you undergoing medical treatment for?

7 A. Colon cancer.

8 Q. Can you briefly describe the nature of the  
9 treatments that you're receiving, how frequent?

10 A. This is a (indicating) -- go to radiation five days a  
11 week in the mornings, and take chemotherapy full time by a  
12 pump, a chemo pump all the time. It's supposed to last for  
13 between five-and-a-half and six weeks, in which case it  
14 will be reevaluated and operated on or further treatments.

15 Q. Have you been advised by your physician that it would  
16 be detrimental to your health to travel?

17 A. I've been -- yeah, very definitely in verbally and in  
18 writing.

19 Q. We have no further questions right now for you, Mr.  
20 Williams. Thank you.

21 CROSS-EXAMINATION OF THOMAS WILLIAMS

22 BY MR. TRAFICANT:

23 Q. Tom, I'm glad to see you look better. My dad died of  
24 colon cancer, and you have nearly all your hair.

25 A. Oh, yeah, they changed the chemo a little bit, I





## Williams Depo

1 guess.

2 Q. It's working for you?

3 A. Yeah, I hope.

4 Q. I'm glad for that.

5 I have some questions. I'm going to start with some of  
6 your comments that you made. You said that sometimes  
7 Buccis did good work and sometimes Buccis did not.

8 A. Most of the time Buccis did not. Occasionally Buccis  
9 did good work.

10 Q. Did you personally go out and inspect their work?

11 A. Yes, on occasion, very often went out and inspected  
12 their work.

13 Q. Did you have -- did you have a lot of arguments with  
14 the Buccis?

15 A. Many.

16 Q. Yeah. They basically sometime would do  
17 slow work that would hold ODOT's season up, right?

18 A. Pardon?

19 Q. Did -- their work would be slow and it would hold  
20 ODOT's program up; would you say that?

21 A. No, I couldn't say that. They'd do weird things,  
22 like, they'd call our inspectors out five days a week, and  
23 not run their plant, which we had to provide in inspection  
24 crew, and then on Saturdays and Sundays they'd decide to  
25 run their plant and work, which costs us all kinds of

## Williams Depo

1 money overtime, which a contractor has a right to do it,  
2 but contractors don't do it.

3 Q. Now, you said they went over your head. Who'd they go  
4 over your head to first?

5 A. Roy Wild, who was construction engineer.

6 Q. And --

7 A. David Dreger.

8 Q. Now, the construction engineer, did he take your  
9 side?

10 A. Yes.

11 Q. When that didn't work, who did they go to?

12 A. David Dreger.

13 Q. And who is he?

14 A. District Deputy Director of District 4.

15 Q. Did he take your side?

16 A. Most of the time.

17 Q. Did --

18 A. I don't know of any time he didn't.

19 Q. You don't know of any time he didn't?

20 A. No. There may have been sometime that he didn't, but  
21 most of the time he did.

22 Q. Most of the time he did. And sometimes you said they  
23 had to go to Columbus.

24 A. Yes.

25 Q. To the governor? Who did they go to?

## Williams Depo

1 A. Don Conaway, as far as I know, or the construction  
2 engineer.

3 Q. Why would they go to Don Conaway or the governor if --

4 A. Because the --

5 Q. -- Mr. Dreger was taking your side?

6 A. Because Mr. Dreger didn't agree with them, so they  
7 were looking for someone to agree with them.

8 Q. Oh, I see.

9 A. Who else they went and seen in Columbus, I don't have  
10 a clue.

11 Q. Now, you said there was a telephone call was made to  
12 you by Robert Bucci, and to the best of your knowledge you  
13 said that Mr. Bucci said he had this problem over in  
14 Mosquito, and he complained that you were shutting them  
15 down, right?

16 A. Yes.

17 Q. Did Mr. Bucci talk about that they had worked out  
18 one-lane plan access road?

19 A. No.

20 Q. He never said that to you?

21 A. No. A what?

22 Q. A one-lane -- tried to operate a one-lane system

23 A. That was a requirement.

24 Q. Yeah. Did they try to do that?

25 A. You couldn't possibly do that on a holiday weekend on

## Williams Depo

1 that road because with no -- because the campsites were on  
2 one side of the road, and how would you do it? It would be  
3 impossible to do it.

4 Q. So the bottom line is you said at some point, then, I  
5 got on the phone, right?

6 A. Yes.

7 Q. Did I introduce myself to you?

8 A. Yeah.

9 Q. You said that you identified my voice, and you knew me  
10 from my voice?

11 A. Right, and you said --

12 Q. But you said then I told you who I was.

13 A. Yes. You said, this is Jim Traficant.

14 Q. And did I believe that you should let them go ahead  
15 and finish the job?

16 A. Yes.

17 Q. Did they finish the job?

18 A. Yes. Not that weekend, they didn't pave, but, yes,  
19 they finished the job.

20 Q. Did I call you back after you shut them down?

21 A. No.

22 Q. Did I put any more pressure after you shut them -- I  
23 shut them down?

24 A. On me?

25 Q. Yeah

## Williams Depo

1 A. No

2 Q. Did I ever send a letter that you should be fired?

3 A. Did you what?

4 Q. Did I ever send a letter that you should be fired?

5 A. No, you didn't say that. I never said you said that  
6 at all.

7 Q. Do you know where that came from, then?

8 A. It wasn't from me. No, I don't know where it came  
9 from. It certainly wasn't my testimony.

10 MR. KALL: I'd object to the extent that you're  
11 mentioning a letter. His testimony was that you said  
12 certain things on the phone.

13 BY MR. TRAFICANT:

14 Q. Okay. Are you familiar with the letter that I might  
15 have sent dealing with your termination because of  
16 complaints I had from individuals within the area?

17 A. No, I'm not familiar with it at all.

18 Q. When you retired, did you get your personnel file?

19 A. Pardon me?

20 Q. When you retired, did you get your personnel file?

21 A. No.

22 Q. Did you ever see your personnel file?

23 A. I looked at it. There was nothing in it  
24 particularly I was interested in. No, I wasn't --

25 Q. Are you familiar with the fact that I



## Williams Depo

1 subpoenaed your personnel file for today's  
2 deposition?

3 A. I think I read it in the paper that you  
4 did.

5 Q. Did you get a copy of what they sent me?

6 A. No.

7 BY MR. TRAFICANT:

8 Q. Do you know if there was a letter sent for  
9 you to be fired?

10 A. I've already answered that. No, I don't.

11 Q. If there was a letter for you to be fired,  
12 would it be in your personnel record?

13 MR. KALL: Objection, objection;  
14 speculative.

15 THE WITNESS: I don't know. I don't  
16 have a clue what was in my personnel file or  
17 what --

18 BY MR. TRAFICANT:

19 Q. To the best of your knowledge, what was  
20 maintained in personnel files?

21 A. The -- any disciplinary action that was  
22 taken, your -- the forms that they fill out  
23 evaluating your performance, when you were hired, when you  
24 were fired. I don't really -- I never  
25 looked that much at my personnel file.

## Williams Depo

1 Q. So after you shut the Buccis down you  
2 didn't hear anything else from Jim Traficant,  
3 yourself, did you?

4 A. No, I did not.

5 Q. Did you ever hear anything else from Jim  
6 Traficant?

7 A. No.

8 Q. Were you familiar with complaints that I  
9 had received from a black man, was from Stark County,  
10 who's a contractor relative to you?

11 MR. KALL: Objection; speculative.

12 Answer if you can.

13 THE WITNESS: No.

14 BY MR. TRAFICANT:

15 Q. You were -- were familiar, though?

16 A. With what?

17 Q. With a complaint that came from a black man  
18 from Stark County relative to you and your behavior.

19 MR. KALL: Same objection.

20 THE WITNESS: I'm not even familiar  
21 with a black man in Stark County as a  
22 contractor, no --

23 BY MR. TRAFICANT:

24 Q. Or in District 4. Let's say District 4.

25 A. No, I'm not familiar with it, no.

## Williams Depo

1 Q. Okay, fine. By the way, my dad died of colon cancer.

2 A. You've said that. Thank you. I -- you've  
3 told me that before.

4 Q. How long have you been under treatment?  
5 When did you start?

6 A. About a month.

7 Q. A month ago?

8 A. Yeah.

9 Q. Now, I have a number of questions for you.  
10 I'll try and be as fast as I can, and go through a  
11 few things with you. I think everybody in here wants  
12 to do the right thing, and there's some time  
13 restraints.

14 Were you ever made aware by any superior  
15 that there have been meetings with contractors  
16 regarding you and your behavior in District 4?

17 A. I was told by Roy Wild once that the deputy  
18 director had a meeting with you regarding trying to  
19 get me to lay off a few people. That's the only  
20 thing anybody ever told me.

21 Q. Were there any -- no one else told you of  
22 any another meetings.

23 A. No.

24 Q. You don't know of a black man by the name  
25 of Johnson?

## Williams Depo

1 A. Yes.

2 Q. And who is Mr. Johnson?

3 A. He was in business with Bill Bunkley. He  
4 took over as a contractor. He worked as a foreman  
5 for City Asphalt for many years, and to my knowledge  
6 I never was on a job that Joe Johnson ever paved,  
7 except one with Bill Bunkley when he was his partner.

8 Q. Okay. That's fine.

9 Were you ever investigated by the Ohio  
10 State Patrol?

11 MR. KALL: Objection to the extent he  
12 couldn't possibly know.

13 THE WITNESS: How would I know if I was  
14 investigated by the Ohio State Highway  
15 Patrol? They don't tell anybody they  
16 investigate, that I know of. If I was, it  
17 sure wasn't very serious because they never  
18 told me, and nothing ever happened.

19 BY MR. TRAFICANT:

20 Q. Let me ask you something; did Mr. Dreger or  
21 any of your superiors ever talk to you about  
22 drinking?

23 A. No, not Mr. Dreger, and none of my  
24 superiors, no.

25 Q. Do you know if there was a photograph taken

## Williams Depo

1 of your State car outside the bar?

2 A. Yeah, Jim Fiorenzo took it.

3 Q. Yeah. Was it during working hours?

4 A. It was -- not particularly during working  
5 hours. But I don't know. It wasn't a time-dated  
6 photo that I know of. I started work sometimes at  
7 5:00 o'clock in the morning and quit at 3:00 o'clock  
8 in the afternoon. So, no, I don't know whether it  
9 was or not. Jim Fiorenzo, by the way, was a  
10 ex-bridge engineer who was fired for fixing contracts  
11 for ODOT. He later ran for Trumbull County engineer  
12 and he was put in jail there.

13 Q. Did I ever --

14 A. He was angry with me.

15 Q. Did I ever call you to help Mr. Fiorenzo?

16 A. You know I wouldn't help Mr. Fiorenzo.

17 Q. Did I ever call you?

18 A. No, you did not. No, you didn't.

19 Q. When you had that situation with Sabatine,  
20 did I call and try and -- did I talk to you about the  
21 situation with Sabatine?

22 A. I'm not aware of any situation with  
23 Sabatine --

24 Q. Out at the airport, when you quit.

25 A. That wasn't a situation. I just quit.

## Williams Depo

1 Q. Yes. Did you have any calls from Jim Traficant?

2 A. No. I don't know what we'd have discussed  
3 if you had called.

4 Q. I didn't ask you that. Did you have a call --

5 A. No, I didn't.

6 Q. Fine. Now, was Mr. Dreger an intimidating  
7 man to you?

8 A. No, he wasn't.

9 Q. Did you intimidate Mr. Dreger?

10 A. I certainly hope not.

11 Q. Did you have any relatives as employees  
12 with any companies within District 4 while you were,  
13 in fact, in your position of leadership?

14 A. I had two sons that belonged to the  
15 Laborer's Union, who worked as laborers for  
16 contractors.

17 Q. Who'd they work for?

18 A. Both are bridge contractors.

19 Q. Who did they work for?

20 A. Bridge Specialists, Incorporated, J.R.  
21 Suther (phonetic). They still -- by the way, I've  
22 been retired for six years and they're still working  
23 for the same company.

24 Q. Fine. Who owned at the time -- what was  
25 the first company?

## Williams Depo

- 1 A. Bridge Specialists, Incorporated.
- 2 Q. Who owned that company?
- 3 A. Tony Chick (phonetic).
- 4 Q. And what was the second one?
- 5 A. J.R. Suther.
- 6 Q. And Mr. Suther owned that company?
- 7 A. Gene Holloway (phonetic), really.
- 8 Q. Gene Holloway, really --
- 9 A. Yeah.
- 10 Q. -- owned it?
- 11 A. Yeah.
- 12 Q. Name the son that worked for Mr. Chick.
- 13 A. Tommy.
- 14 Q. Tony.
- 15 A. Thomas.
- 16 Q. Thomas.
- 17 A. Yes.
- 18 Q. And name the son that worked for Mr. Sojo
- 19 (phonetic).
- 20 A. Brian.
- 21 Q. Brian. Now, they did bridge work?
- 22 A. Yeah.
- 23 Q. Did bridge work fall underneath the purview
- 24 of your overall oversight?
- 25 A. Of my overall oversight, yes, but not

## Williams Depo

1 particularly in the county as they worked there  
2 because these counties have individual field  
3 engineers.

4 Q. Yes. But did you have oversight over the  
5 field engineers?

6 A. Normally, yeah.

7 Q. Yes. Isn't it a fact that Mr. Chick made  
8 millions and millions of dollars on bridges?

9 A. Mr. Chick's bankrupt on bridges.

10 Q. Is he? Did you ever approve --

11 A. It's proven he went bankrupt.

12 Q. Did you ever approve -- yeah, there's a lot  
13 of guys that go bankrupt. Did you ever approve of  
14 any add-ons from Mr. Chick?

15 A. Approved add-ons, deducts -- odd-on's a  
16 change order.

17 Q. Yes.

18 A. It is not the purview of the -- the change  
19 order's approved by the director -- by the deputy  
20 director. It's recommended by the construction  
21 engineer.

22 Q. Did you ever have any relationship with a  
23 contractor by the name of Mr. Nolfi?

24 A. Who?

25 Q. Tony Nolfi.

## Williams Depo

1 A. Not that I'm aware of.

2 How do you spell it?

3 Q. I think it's N-O-L-F-I.

4 A. No. Never heard of him, to tell you the  
5 truth, didn't even know he was a contractor.

6 Q. Okay. All right. Did you have a friend, a  
7 woman friend from Akron, that you helped get employed  
8 at ODOT?

9 MR. KALL: Objection; relevance. Go  
10 ahead.

11 THE WITNESS: I didn't help get  
12 employed. There was an engineer.

13 BY MR. TRAFICANT:

14 Q. Did you --

15 A. Took quite a few of them, three of them, or  
16 four --

17 Q. Did you recommend these employ -- these  
18 women?

19 A. No. They all went through the ODOT  
20 training program for engineering training.

21 Q. By the way, when you were hired, were you a  
22 civil servant? Did you pass the civil service exam?

23 A. I passed the professional engineer's exam.

24 Q. Did you pass -- did you ever take a civil  
25 service exam?

## Williams Depo

1 A. No, no.

2 Q. So you worked two years, and after two  
3 years you became civil servant; is that correct?

4 A. Correct.

5 Q. Who appointed you?

6 A. The deputy director, I suppose. Well, the  
7 director appoints everybody, I guess, but the deputy  
8 director, I suppose.

9 Q. Who makes the final decision?

10 A. The director makes the final decision.

11 Q. Who was the director at the time?

12 A. Promasiter (phonetic), I believe.

13 Q. Who was the governor at the time?

14 A. James Rhodes, probably. Yeah, James  
15 Rhodes.

16 Q. He was a good governor, wasn't he?

17 A. He was all right, I guess, the first two  
18 times, anyway.

19 Q. I thought he was.

20 Well, any of these women -- did you know  
21 some of these women or any woman from Akron that  
22 you -- that you knew more than other women?

23 THE WITNESS: Not particularly.

24 MR. KALL: Objection; relevance. Go  
25 ahead.

## Williams Depo

1 THE WITNESS: No.

2 BY MR. TRAFICANT:

3 Q. Well, do you know if a woman you had known  
4 personally was assigned to the bridge inspection  
5 projects of Mr. Chick?

6 A. I don't -- not familiar with Mr. Chick ever  
7 having a bridge project in Akron.

8 Oh, yeah, he did have one in -- or, yeah,  
9 the man was the project engineer there.

10 Q. Mainly where did he do his work?

11 A. Pardon? He did his work in Mahoning and  
12 Trumbull County, for the most part. No.

13 Q. Even though the woman might have originated  
14 from Akron, was -- she was a District 4 employee, was  
15 she not?

16 A. Correct, yeah.

17 Q. So it doesn't necessarily mean she was  
18 assigned Akron, does she?

19 A. We had enough work at every county these  
20 people were employed at that they very seldom left  
21 their counties.

22 Q. So you have no knowledge of a woman,  
23 particularly a Greek woman from Akron, who was a  
24 close friend of yours; is that your statement?

25 A. I know a Greek woman. You're talking about

## Williams Depo

1 Caliope Squires (phonetic).

2 Q. And what, if anything -- was she a project  
3 engineer?

4 A. She was a project engineer, a very good  
5 one, by the way.

6 Q. Yeah. Where did she work?

7 A. She worked in Akron.

8 Q. Okay. Did she ever work on any of  
9 Mr. Chick's jobs?

10 A. Any job that he was contracted on he may  
11 have -- she may have worked on one that in northern  
12 Ohio was the contract and he was sub. I'm not sure.

13 Q. Were there complaints about other  
14 colleagues about you in the department? Any  
15 colleagues make any complaints about you?

16 A. Not that I'm aware of.

17 MR. KALL: Objection; foundation.

18 THE WITNESS: I supposed there probably  
19 was some complaints, but I would not be  
20 human if there weren't, but I -- not that I  
21 was aware of.

22 BY MR. TRAFICANT:

23 Q. Would they be in your personnel file?

24 MR. KALL: Objection; speculative.

25 THE WITNESS: I suppose. I don't know.

## Williams Depo

1 BY MR. TRAFICANT:

2 Q. Let me ask you this. If there was someone  
3 who filed a complaint against an ODOT employee, would  
4 it not be memorialized by placing it in the personnel  
5 file?

6 MR. KALL: Objection; foundation.

7 THE WITNESS: I would presume if  
8 someone made a complaint against an employee  
9 of ODOT they would tell the employee who the  
10 complaint was made against. At that point  
11 there should have been some resolution, and  
12 the whole thing probably would have been in  
13 the personnel file. I can't imagine  
14 something be put in your personnel file  
15 unless you were told about it. So I don't  
16 really know what you're talking about.

17 BY MR. TRAFICANT:

18 Q. Okay. But my question was, under ODOT  
19 rules -- are you familiar ODOT rules?

20 A. Yes.

21 Q. Okay. Personnel files are to contain what?

22 A. I'm not familiar with what ODOT rules  
23 pertain to personnel files. If you want to know  
24 something about construction, which I worked in, I  
25 know that. If you want to worry about the

## Williams Depo

1 contractor, I know that. The contracts, I know them.

2 Personnel files, I don't know what's in them.

3 Q. Do you know if there was more than one  
4 personnel file? Did they maintain different files?

5 MR. KALL: Objection; he just stated he  
6 didn't know --

7 MR. TRAFICANT: No, no. I didn't ask  
8 that question. I'm asking a different  
9 question.

10 BY MR. TRAFICANT:

11 Q. Do you know if there was a personnel file  
12 that dealt with, you know, the generic matters, and  
13 another file that dealt with complaints, or other  
14 items, to the best of your knowledge?

15 A. No, I'm not aware of it.

16 Q. Fine. Thank you. You treated every  
17 company the same?

18 A. Certainly tried to.

19 Q. Did you have anything to do with getting  
20 your two sons' employment?

21 A. Nothing. They worked for the union, and  
22 the union had them employed. In fact, I --

23 Q. Did you have a good relation with the  
24 union?

25 A. Not bad, but I was very unhappy and still

## Williams Depo

1 unhappy my son's working construction. My son has a  
2 bachelor's degree and two technical degrees, and I  
3 don't think he ought to be working in construction,  
4 and it's a bad field for both of them, and it makes  
5 me unhappy that they work there.

6 Q. Now, when your sons were working for these  
7 companies in District 4, weren't you ultimately the  
8 supervisors of those field engineers who were  
9 supervising their projects? Were you the ultimate  
10 supervisor?

11 A. No, the ultimate supervisor of everybody's  
12 the director, after that the deputy director, after  
13 that the construction engineer, and after that, me.

14 Q. Yes. And then under you who is next?

15 A. The field engineers.

16 Q. And who would the field engineer report to  
17 first?

18 A. The construction engineer or me, whoever  
19 happened to be there. We had a loose authority at  
20 that --

21 Q. Where there any -- any rules or regulations  
22 relative to conflicts when an ODOT employee  
23 supervisor might have had a relative working on a  
24 particular project, to your knowledge?

25 A. No, I don't know of any conflict or any

## Williams Depo

1 resolution of them.

2 Q. Over the years you were promoted many  
3 times, weren't you?

4 A. A few, yeah.

5 Q. From your -- in your opinion, were the  
6 Bucci Brothers crooks?

7 A. In my opinion?

8 Q. Yeah.

9 A. Yeah.

10 Q. Did you think that they would lie?

11 A. Yes, I think they would lie, yes.

12 Q. Did you ever accept anything they say as  
13 being truthful at any time?

14 A. Of course I accepted things people say as  
15 being truthful. Bucci Brothers were treated as well  
16 or better than most contractors because they raise so  
17 much hell. Their big deal was, what do you mean by  
18 that? You could say good morning to them, and they'd  
19 say, what do you mean by that? And it would end up  
20 in a big argument. We tried as best we could to get  
21 along with Bucci Brothers, and that includes me.

22 Q. Would you say that your relationship with  
23 them was friendly, unfriendly, at times hostile; how  
24 would you describe your relationship?

25 A. Most of the time it was nonexistent, and

## Williams Depo

1 sometimes it was hostile, and sometimes it was  
2 friendly, or casually friendly, like, we didn't beat  
3 each other to death.

4 Q. Bottom line, were they honest?

5 A. Pardon me?

6 Q. Were they honest?

7 A. I think I've already answered that  
8 question, Congressman.

9 Q. You said, no, right?

10 A. Yes, sir.

11 Q. Don't call me names now, Tom.

12 A. Oh, okay.

13 Q. Okay. But you considered them to be liars,  
14 right?

15 A. I didn't say that. That wasn't the  
16 question. You said --

17 Q. Well, then, let me ask you the question; do  
18 you think they were liars?

19 A. For the most part, or for many cases, yes.

20 Q. Mr. Bucci just recently testified that  
21 you're an honest man, and one of the best inspectors  
22 ever dealt with; are you familiar with that?

23 A. No. He was under oath. Nobody lies under  
24 oath. They put you in jail.

25 Q. Mr. Bucci also testified that he bribed a

## Williams Depo

1 lot of State inspectors.

2 A. I don't believe him.

3 Q. Well, he was under oath then.

4 A. Okay. I still don't believe him.

5 Q. Was there any investigation into bribes  
6 with Mr. Bucci into State inspectors?

7 A. I have no idea. It would be so hard -- I  
8 had 38 years with ODOT, and it would be so hard to  
9 figure out what inspector you could bribe with ODOT  
10 that would do you any good, because it was such a  
11 convoluted mess -- not mess, but it --

12 Q. Well, then, let me ask you this; Mr. Bucci  
13 said, and told the Federal Government, and testified  
14 under oath, that he bribed many inspectors.

15 A. Did he say ODOT inspectors --

16 Q. ODOT inspectors.

17 A. Or did he say many inspectors?

18 Q. ODOT inspectors.

19 MR. KALL: Objection; there's no  
20 question. You said a statement. If you  
21 have a question, pose it.

22 THE WITNESS: What was the question? I mean...

23 BY MR. TRAFICANT:

24 Q. Mr. Bucci stated that he had, in fact,  
25 bribed several ODOT inspectors; do you believe that

## Williams Depo

1 to be a true statement?

2 MR. KALL: Objection; go ahead.

3 THE WITNESS: No, I don't.

4 BY MR. TRAFICANT:

5 Q. Was Mr. Bucci under oath when he said that?

6 A. Yeah --

7 MR. KALL: Objection; he wasn't in  
8 Court.

9 BY MR. TRAFICANT:

10 Q. Did Mr. -- did the Buccis ever try and buy  
11 you?

12 A. Oh, to some point, yes, but it -- not --

13 Q. Explain that.

14 A. Not really serious --

15 Q. Explain that.

16 A. They'd try to do all kinds of things. They  
17 asked me if I wanted to go play golf one day in  
18 Pennsylvania, and something -- things like that, but  
19 never any serious attempt to bribe me, no, that I was  
20 aware of.

21 Q. So they made intros, though, to get close  
22 to you, did they -- didn't they?

23 A. They what?

24 Q. They made, like, an intro to get close to  
25 you.

## Williams Depo

- 1 A. They tried.
- 2 Q. Go golfing. And you, in fact, did what?
- 3 A. Said, no, thank you.
- 4 Q. No, thank you. Did you report that --
- 5 A. No.
- 6 Q. -- to your supervisors that these Buccis,
- 7 who are liars, you know, want to take me to golf all
- 8 of a sudden, and stuff like that, did you report
- 9 that?
- 10 A. No.
- 11 Q. Let me put it to you this way; I'm the
- 12 Congressman --
- 13 A. Yes.
- 14 Q. All right. But you had stated earlier that
- 15 you and Buccis had an adversarial relationship.
- 16 A. Yes, we did.
- 17 Q. And then --
- 18 A. It wasn't a hundred percent adversarial.
- 19 Q. And at some point they tried to just,
- 20 gentlemanly maybe, mitigate it by maybe going golfing
- 21 or going out to eat, was that your testimony?
- 22 A. Something like that, maybe.
- 23 Q. Okay. So they tried, right?
- 24 A. They tried to what, I guess, is the
- 25 question.



## Williams Depo

1 Q. I mean, I think they tried to get their  
2 relationship better with you, would you say?

3 A. Probably.

4 Q. That was their purpose?

5 A. They would try one day to do this, the next  
6 day they'd end up screaming at each other again  
7 because they'd do something, so it didn't interest  
8 me.

9 Q. Now, you said Dan was the president?

10 A. Yeah.

11 Q. As far as you're concerned, when you look  
12 at a company, who's the boss?

13 A. President.

14 Q. Was Dan the boss?

15 A. Dan never even came to any meetings or  
16 anything else I was aware of. In fact, he died  
17 before I ever left ODOT. I'm not sure exactly when he  
18 died, but Danny had nothing to say about most things,  
19 as far as I know.

20 Q. Did anyone from the department ever notify  
21 you that a letter had been sent to -- relative to  
22 firing you by the Congressman?

23 A. I've already answered that question, no.

24 Q. Okay. When you talked to me on the phone,  
25 after we concluded our conversation, do you believe

## Williams Depo

1 that you explained to me your reasons why you were  
2 going to shut them down?

3 A. I believe I did, yeah.

4 Q. Did you shut them down?

5 A. Yeah.

6 Q. And is it your testimony that I did not  
7 call you back?

8 A. Not that I was aware of. No, you did not  
9 call me back. You may have called somebody, but not  
10 me.

11 Q. Okay, fine. Now, were you required under  
12 ODOT regulations, when you talked with, for example,  
13 a public official relative to a project in a  
14 controversy to make a report?

15 A. Not required that I was ever aware of.  
16 There was nothing in writing.

17 Q. Did you report my conversation?

18 A. Put a memo in the file.

19 Q. You put a memo in the file?

20 A. Yeah.

21 Q. What file was that?

22 A. The project file.

23 Q. Pardon?

24 A. The project file.

25 Q. And that was the Mosquito Creek project

## Williams Depo

1 file?

2 A. Yes. It's not there, we've looked.

3 Q. You mean the memo's not there now?

4 A. No.

5 BY MR. TRAFICANT:

6 Q. Is it unusual?

7 A. For a letter or something to be missing  
8 from a file?

9 Q. No, for that memo that you wrote into the  
10 project file. Is it unusual for it to be missing, of  
11 such significance?

12 A. I didn't consider it that significant, and  
13 I'm sure nobody else considered it that significant,  
14 and there's many times letters get lost in project  
15 files. All you have to do with them files is put a  
16 letter in the wrong project number and it's lost.  
17 Believe me.

18 BY MR. TRAFICANT:

19 Q. To the best of your knowledge, were there  
20 any other complaints, other than Bucci's, ever made  
21 about you?

22 A. Oh, I'm sure there were complaints other  
23 than Bucci's made about me. I worked there for 37  
24 years.

25 Q. Could you say how many?

## Williams Depo

1 A. Pardon me?

2 Q. Could you say how many?

3 A. No, I couldn't.

4 Q. Would they be memorialized somewhere, in  
5 some file?

6 MR. KALL: Objection.

7 THE WITNESS: I doubt it. Maybe, but I  
8 don't have a clue. I don't know.

9 BY MR. TRAFICANT:

10 Q. Let me ask you this --

11 A. Personnel file is only supposed to be kept  
12 five years.

13 Q. -- to the best of your knowledge, you said  
14 it only could be kept five years? So then you do  
15 have knowledge of personnel files.

16 A. Just that particular -- that it's only  
17 supposed to be kept five years because the personnel  
18 officer come down and asked me one time if I wanted  
19 to keep something, and I said, no. I said, what did  
20 I care?

21 Q. When was the Mosquito Creek project, what year?

22 A. '95.

23 Q. When did it end, late '95?

24 A. August, I believe.

25 Q. And when did you retire?

## Williams Depo

- 1 A. July, '96.
- 2 Q. How old were you when you retired?
- 3 A. 60...let's see, oh, '96, 62.
- 4 Q. Did you take an early buy-out?
- 5 A. Yeah. Not at early buy-out. I had enough
- 6 time in to retire. I took a buy-out because of --
- 7 Q. Yeah. Was that enough time in?
- 8 A. Oh, I had enough time in to retire.
- 9 Q. And you took an early buy-out; is that
- 10 right?
- 11 A. Both, yeah.
- 12 Q. Did -- when you became aware that -- did
- 13 you become aware that I had gone over your head on
- 14 the Bucci matter?
- 15 A. Not particularly on that matter, no.
- 16 Q. What matter did I go over your head on?
- 17 A. Just general matters that you had met with
- 18 David Dreger, is what I was told about having me
- 19 fired.
- 20 Q. Yes. Now, so then you knew, then. Did
- 21 Mr. Dreger state to you what accusations I had made?
- 22 A. Mr. Dreger never told me that he met with
- 23 you, just was Mr. Wild told me this, and he didn't
- 24 tell me anything more than what I just said.
- 25 Q. And what was that, again?

## Williams Depo

1 A. That apparently Mr. Dreger had had a  
2 meeting with you, and it was my job performance was  
3 discussed, and it had been recommended that I be  
4 fired.

5 Q. Okay. To the best of your knowledge, would  
6 something that significant be put in the file?

7 A. That wasn't significant to me, even,  
8 because, at that point I was going to retire anyway,  
9 and I quite frankly didn't give a damn. And I had  
10 enough, and if I had to continue with people like the  
11 Bucci Brothers I wasn't interested in working, and  
12 I'm not sure how significant anybody really  
13 considered it, Congressman.

14 Q. Were you mad at me, Tom?

15 A. No. I was mad at you one time.

16 Q. When were you mad at me?

17 A. When you took Bucci Brothers' place against  
18 3,000 people who wanted to use that damn park on a  
19 holiday weekend. You're supposed to be representing  
20 these people, and you took the place of two people  
21 who you constantly referred to as "my friends"  
22 against these 3,000 people. I was damn well mad at  
23 you then.

24 Q. Okay. Let me ask you this; at that time do  
25 you really know whether or not I understood fully the

## Williams Depo

1 problem?

2 A. I explained it to you.

3 Q. And when you did, what if anything,  
4 happened?

5 A. Nothing. You didn't say, okay. You didn't  
6 say anything except, you're not going to pick on my  
7 friends anymore, is all you said.

8 Q. I accused of you picking on my friends,  
9 didn't I?

10 A. Yeah.

11 Q. But did I tell you that you couldn't cut --  
12 shut down that project?

13 A. You couldn't -- it wouldn't have made a  
14 damn bit of difference, Congressman, if you --

15 Q. But did I tell you --

16 A. No, you did not. You did not.

17 Q. And when you shut it down, did I call you  
18 and say, hey, I want you to open that back up?

19 A. No, you didn't. That wouldn't have made  
20 any difference anyway, either, by the way. But, no,  
21 you didn't.

22 Q. Would you say on the phone, you and I, when  
23 we talked, come to an understanding where I knew more  
24 about the project?

25 A. Definitely, yes, because all you heard

## Williams Depo

1 before when you got on the phone was Bob Bucci's side  
2 of it.

3 Q. And at the end of that conversation, did  
4 you feel a little bit better about having that  
5 conversation with me?

6 A. No, not really.

7 Q. You still felt bad.

8 A. No, I felt -- because you -- what in the  
9 hell were you doing representing these two people, in  
10 opposition to all the people who wanted to use that  
11 park? That's how I felt.

12 Q. Now --

13 A. These people are also your constituents.

14 Q. Doesn't ODOT require a one-lane maintenance  
15 program to keep it open?

16 A. ODOT requires that traffic be maintained in  
17 an orderly manner, not one lane, not two lanes, it be  
18 maintained as best as you can maintain it.

19 Q. Okay.

20 A. Minimum one lane.

21 Q. And did you not then, in fact, explain it  
22 to me?

23 A. I'm not sure I did, no. You couldn't  
24 maintain traffic. I may have explained that to you.

25 Q. Yes.

## Williams Depo

1 A. Yes.

2 Q. And then, at that point, isn't it a fact  
3 that the conversation ceased?

4 A. Yes, yeah, pretty much.

5 Q. And I never --

6 A. You didn't say you're right, you didn't say  
7 you're wrong. You didn't say anything.

8 Q. And at that point, it ceased, didn't it?

9 A. Yeah. It ceased, as you say, you're not  
10 going to pick on my friends anymore. And it's  
11 already been discussed. There's no sense going over  
12 that.

13 Q. There was testimony given last week by  
14 Mr. Bucci, and after having met with you, I believe  
15 you are an honest man.

16 A. Thank you. I appreciate that.

17 Q. And I hope you well --

18 A. Thank you.

19 Q. -- with your chemotherapy. My dad went  
20 through it, he -- you're not into chemo yet?

21 A. I have chemo right there (indicating).

22 Q. He lost all his hair. Are you starting to  
23 lose yours?

24 A. No. Like I said, they changed chemo quite  
25 a bit. They've improved it quite a bit.

Dreger - Direct

1 Q. Were you a heavy smoker, Tom?

2 A. Was I a smoker?

3 Q. Yeah.

4 A. Yes.

5 Q. For many years?

6 A. Not that many, but, yeah, for many years,  
7 but colon cancer's not related to smoking.

8 Q. Supposedly.

9 A. My doctor's always said it's not related to  
10 smoking.

11 Q. He said that?

12 A. Yeah.

13 (Deposition concluded.)

14 DAVID DREGER,

15 of lawful age, a witness called by the Government,

16 being first duly sworn, was examined

17 and testified as follows:

18 DIRECT EXAMINATION OF DAVID DREGER

19 BY MR. KALL:

20 Q. Would you please state your name, and spell your last  
21 name?

22 A. David Dreger, last name is D-R-E-G-E-R.

23 Q. What do you do for a living, Mr. Dreger?

24 A. Well, I'm semi-retired now. I'm a civil engineer,  
25 and I've spent most of my career in Government, working for

Dreger - Direct

1 Ohio Department of Transportation and the City of Alliance.

2 I also worked in some engineer consulting.

3 Q. When you worked for the Ohio Department of  
4 Transportation, what was your job title?

5 A. I was the District 4 deputy director.

6 Q. What are what are the duties of a deputy director?

7 A. Well, the deputy director is the person in charge of  
8 the District Office and the department has 12 District  
9 Offices throughout the state. Each one has a designated  
10 area. They're responsible for maintenance, construction,  
11 and planning, and I was the person in charge of that  
12 district.

13 Q. How long were you in charge of District 4?

14 A. Nine and a half years.

15 Q. What years approximately?

16 A. From February 1991 until August of 2000.

17 Q. And what geographic area does District 4 cover?

18 A. Ashtabula County, Trumbull County, Mahoning County,  
19 Stark County, Portage County, Summit County.

20 Q. I'd like to ask you some questions about contact you  
21 had with various congressmen as part of your employment at  
22 ODOT. First off, does ODOT receive federal funds for some  
23 of its projects?

24 A. Yes, it does.

25 Q. Substantial amounts?

Dreger - Direct

1 A. Yes.

2 Q. Does the fact that ODOT receives federal funds give  
3 the local congressmen a certain degree of influence or  
4 importance to ODOT?

5 A. I would guess it probably does. We -- our department  
6 tried to maintain close contact with legislators, both at  
7 the national level and the state level.

8 Q. While you were employed as district director, did you  
9 ever have contact with James Traficant?

10 A. Yes, I did.

11 Q. Did he ever contact you regarding a company run by  
12 the Bucci brothers?

13 A. Yes, he did.

14 Q. Were you familiar with the Bucci brothers?

15 A. Yes. I met Bob Bucci when he operated a company  
16 called Asphalt Specialist, probably in the early '80s or  
17 when I was with the City of Alliance. He had a city  
18 contract with us there, and I -- he, of course, when I was  
19 with the Department of Transportation, he operated Prime  
20 Contractors, and they did considerable amount of work for  
21 the Department of Transportation.

22 Q. What was their reputation within ODOT?

23 A. They were a hard company to work with because they --  
24 they did not comply with all of our specification  
25 requirements unless we put a lot of effort into getting

Dreger - Direct

1 that kind of compliance.

2 Q. What types of specifications?

3 A. The department has detailed specifications for just  
4 about all the work that's done and of significant part of  
5 road work is maintenance of traffic and the safety of the  
6 public as well as the personnel that are employed by the  
7 contractor in working on the site.

8 And over the years, the requirements were those of  
9 maintenance of traffic and safety requirements that had  
10 been upgraded while they do the paving that takes place,  
11 and it's become a considerable part of costs of doing  
12 business.

13 And that was one area that they continually were  
14 faulty with us over the equipment. Sometimes the -- the  
15 department specifies what -- what kind of equipment, what  
16 condition it's in, and sometimes that was the problem with  
17 them. And also, of course, the materials are specified,  
18 and I -- I would guess that there were times when we had  
19 problems with components of the materials, too.

20 Q. Who were these specifications set up to protect?

21 A. The State of Ohio, the public in Ohio.

22 Q. Given the difficulties that you talked about with the  
23 Buccis, why did ODOT keep doing business with them?

24 A. The State of Ohio prequalifies contractors in order  
25 to bid on a contract. The company has to be prequalified,

Dreger - Direct

1 and at times, they weren't qualified. They couldn't bid on  
2 work, but then they would improve, and they did whatever  
3 was required. That prequalification process was done at a  
4 central office in Columbus. It's not something that we in  
5 the district had anything to do with, but most of the time,  
6 they were prequalified to bid on work, but they weren't  
7 sometimes. If they weren't, then they would -- with a lot  
8 of pressure, they would come close to compliance most of  
9 the time, but it took a lot of effort to get that  
10 compliance.

11 Q. You testified earlier that Congressman Traficant  
12 contacted you regarding the Buccis, correct?

13 A. Yes.

14 Q. When was this?

15 A. Well, the specific instance that I recall is -- was  
16 in September of 1992, and at that time, the Bucci -- or  
17 Prime Contracting was doing work on Interstate 680 in  
18 Youngstown, and they -- Prime Contracting -- Prime was the  
19 contractor's name, but in the construction business, the  
20 contractor that holds the contract with the owners  
21 generally is referred to as the prime contractor.

22 They were not the prime contractor on this job, they  
23 were a sub to another contractor, but they were doing most  
24 of the work out in the field for this particular project.

25 Q. How were you contacted?

Dreger - Direct

1 A. The representative called me by telephone one day,  
2 late in the day, and asked me to meet him for breakfast the  
3 following morning to talk about this job and our  
4 relationship with the Bucci brothers.

5 Q. At the time that you received this call, did you know  
6 who he was and what his position was?

7 A. Yes, I did.

8 Q. And did that affect your reaction to the phone call?

9 A. I -- I don't think so. I'm pretty open and willing  
10 to meet with anybody, and certainly the Congressman wants  
11 to talk, I'm willing to talk.

12 Q. Did you, in fact, go to a meeting with the  
13 Congressman?

14 A. Yes, I did.

15 Q. When was this?

16 A. It was on September 2 of 1992.

17 Q. And do you recall where this was?

18 A. At the Perkins restaurant in Canfield.

19 Q. How soon after you received a phone call from the  
20 Congressman was this meeting?

21 A. The following day, and then -- the meeting, I think,  
22 was 7:30 perhaps in the morning.

23 Q. Do you recall who was at the meeting?

24 A. There were quite a few folks there. I was the only  
25 person from the Department of Transportation. I know the

Dreger - Direct

1       Congressman was there, Bob Bucci. I remember Charles  
2       O'Nesti was there, Paul Wilson who worked for Prime  
3       Contractors, and there were a number of other folks. I  
4       didn't know all of them, and I don't recall who they were.

5       Q.     What was the topic of discussion at the meeting?

6       A.     Tom Williams, who works -- worked at that time for  
7       the Department of Transportation, had been trying to get --  
8       enforce the specifications on the particular project, and  
9       as I recall, dealt primarily with the maintenance of  
10      traffic items, but the safety items, but I was not a person  
11      who was in the field. So I don't know all of the areas  
12      that were being argued about.

13             But at any rate, the contractor felt that they were  
14      being -- that we were being too strict, the department was  
15      being too strict on enforcement of the requirements, and  
16      they would -- they couldn't afford to do business that way,  
17      and they wanted us to -- wanted me to ease up on the  
18      requirements.

19      Q.     What did Congressman Traficant say at the meeting?

20      A.     There was considerable discussion. I think the  
21      meeting lasted about an hour. We went over some specific  
22      things, but the statement that I recall mostly occurred  
23      near the end of the meeting was: If the Ohio Department of  
24      Transportation, due to its enforcement of the  
25      specifications, caused the Bucci brothers to lose their

Dreger - Direct

1 business, there would be trouble for us.

2 Q. What did you understand that to mean?

3 A. Well, that I didn't -- I don't know. I can't say  
4 what. To me, it felt like some kind of threat or  
5 intimidation, but I don't have any idea what he meant the  
6 trouble would be.

7 Q. What was Congressman Traficant's tone or demeanor in  
8 the meeting?

9 A. He was very defensive of the Bucci brothers or the  
10 Prime Contractors, and certainly there to support them.

11 Q. What was his tone of voice? Was he loud?

12 A. At least part of the time. I don't know that he was  
13 all of the time, but --

14 Q. Did you keep any kind of record at this meeting?

15 A. Yes. I kept -- most of the time that I was with the  
16 Department of Transportation I kept a daily journal, and I  
17 wrote down meetings that I attended and some conversations  
18 that I had, brief notes, so that I could recall things in  
19 case I needed to at a later time. I didn't on that day.

20 Q. If you look down in front of you at Government's  
21 Exhibit 2-12, do you recognize that?

22 A. Yes, I do.

23 Q. What is that?

24 A. That's my journal notes for that September the 2nd,  
25 1992 meeting.

Dreger - Direct

1 Q. And was this something that you created in the  
2 ordinary course of your employment with ODOT?

3 A. Yes, it is.

4 Q. What's the date for this journal entry?

5 A. September -- Wednesday, September 2, 1992.

6 MR. KALL: Your Honor, may I place it on the  
7 overhead.

8 THE COURT: Yes

9 BY MR. KALL:

10 Q. It says in the upper right-hand corner, eight hours.  
11 What does that refer to?

12 A. That's about the time I was in the office that day.  
13 I tried to keep track of my hours for my own benefit.

14 Q. Could you read this journal entry, please?

15 A. "I met with J. Traficant, his brother, his office  
16 assistants, Bob Bucci, and Paul Wilson to hear their  
17 complaints regarding Tom Williams. Traficant threatened  
18 some kind of action if ODOT causes Buccis to go out of  
19 business. The meeting did not accomplish anything. They  
20 wanted Tom Williams at the meeting they said, but none of  
21 them invited him."

22 Q. Do you recall how the meeting ended?

23 A. Well, I was told the meeting was over, and that I had  
24 been invited to the breakfast meeting. We hadn't eaten  
25 breakfast yet, and I left, and nobody else left so I assume

Dreger - Direct

1 I missed breakfast and had breakfast after I left.

2 Q. Did Congressman Traficant ever contact you regarding  
3 any other contractors than the Buccis?

4 A. Not that I ever recall.

5 Q. Did any other Congressperson ever contact you about  
6 an individual contractor?

7 A. Not that I recall.

8 Q. How long did you work with Tom Williams?

9 A. Tom retired a couple of years before I did so  
10 probably seven or eight years.

11 Q. What was your opinion of him as an engineer?

12 A. He was probably one of the best construction  
13 engineers in the department. He -- in our district, we had  
14 a structure with a construction engineer, and serving right  
15 under him were five field engineers that kind of did field  
16 supervision over all the projects in the district, and he  
17 was the chief of those files.

18 I guess I kind of acted as the assistant construction  
19 engineer, and he was used by the central office quite  
20 frequently as an expert on contracts that had to go to  
21 mediation or had some kind of problem at the end, and so he  
22 was recognized throughout the state as being an expert on  
23 both specifications and contract issues.

24 Q. Are you aware of a dispute that Mr. Williams was  
25 involved in regarding the project at Mosquito -- Mosquito

Dreger - Direct

1 Creek State Park?

2 A. Yes, because he -- he told me about it at the time.

3 I wasn't in direct contact with them at that time.

4 Q. If you look in front of you, Government's Exhibit

5 2-13, do you recognize this?

6 A. Yes. It's also a copy out of my journal.

7 Q. And is this something that you made and maintained in

8 the ordinary course of your business at ODOT?

9 A. Yes.

10 MR. KALL: Your Honor, may I put this on the

11 overhead?

12 THE COURT: Certainly.

13 BY MR. KALL:

14 Q. What's the date for this journal entry?

15 A. The one in particular that you're referring to is

16 Friday, May 26, 1995.

17 Q. So there's two pages on this, and --

18 A. Yes.

19 Q. The second one involves Mosquito Creek?

20 A. Yes, the last paragraph on the page.

21 Q. Who is Roy Wild?

22 A. Roy Wild was the construction engineer that

23 supervised all the overall construction.

24 Q. Maybe you may need to take this out of the plastic.

25 I believe there's a second page to it, but I'd like to ask

Dreger - Direct

1 you to read the bottom paragraph and continue on to the  
2 first paragraph on the next page?

3 A. "Roy Wild came to talk with me, and then later I had  
4 a telephone conversation with Tom Williams. There was a  
5 controversy that developed today with Prime Contractors and  
6 Bucci brothers. It came about because of a contract they  
7 had with the department to do work at Mosquito State Park.  
8 The park supervisor asked that no work be done over this  
9 holiday weekend. It is most likely in Roy's opinion that  
10 it was never the intent of the contractor to work, but once  
11 it was brought to his attention, he decided that it was in  
12 his agenda."

13 "If he refused permission to work or if he was  
14 refused permission to work, the state would have to pay his  
15 down time. He announced that he was working. The  
16 department took the approach that if they were going to  
17 behave that way and look at the nitpicking issues, that we  
18 would do the same. They found them in violation of two or  
19 three specifications requirements and told them that we  
20 were shutting them down.

21 "Bucci brothers scrambled around trying to come into  
22 compliance before the end of the day. I do not know if  
23 they succeeded or not, but Tom's comments were that he was  
24 put on the telephone in conversation with them, and that he  
25 was alone in the telephone conversation, but after awhile,

Dreger - Direct

1 U.S. representative James Traficant made some comments, so  
2 apparently he was included in the entire telephone  
3 communication but without Tom being aware of it.

4 "They made the same comments that they usually do,  
5 that the department is threatening Prime Contractors and  
6 that the representative will not allow them to be put out  
7 of business by this department.

8 "It was his intention to speak to Jerry Wray and to  
9 Paul Misfud about it to straighten things out. It is not  
10 likely that will happen in my view. Tom's final words to  
11 them were that if they come into compliance, they could be  
12 technically approved to proceed, but we will not allow them  
13 to work, and we will pay them the overhead for being down  
14 but only if they comply with those things that we have  
15 found them to be in noncompliance with. I do not know if  
16 they made it or not, but it is another interesting battle  
17 with those folks."

18 Q. The couple names in the middle that -- Jerry Wray and  
19 Paul Misfud, who are those two individuals?

20 A. Jerry Wray was the director of the department, of the  
21 Ohio Department of Transportation, the man I reported to.

22 Q. Who is Mr. Misfud?

23 A. Paul Misfud was Governor George Voinovich's chief of  
24 staff.

25 Q. Do you know what the outcome of this dispute was

Dreger - Cross

1 regarding Mosquito Lake State Park?

2 A. No. I -- I know they didn't work, but I don't know  
3 whether we paid them or not.

4 MR. KALL: Can I have a moment, please? No  
5 further questions at this time, your Honor.

6 THE COURT: Thank you. Congressman?

7 MR. TRAFICANT: Your Honor, may I ask when  
8 you plan to take a break, or I will take sometime for this  
9 witness.

10 THE COURT: Then we'll take a break. Thank  
11 you for your consideration. We'll take a break. This will  
12 be a 20-minute break, and then we'll come back. So that  
13 puts us back at quarter of 11:00. Okay?

14 (Thereupon, a recess was taken.)

15 THE COURT: You're still under oath.

16 MR. TRAFICANT: Good morning, David.

17 CROSS-EXAMINATION OF DAVID DREGER

18 BY MR. TRAFICANT:

19 Q. Good morning.

20 A. Good morning.

21 Q. Did you stay overnight in Cleveland?

22 A. No, I didn't.

23 Q. Traveled from where?

24 A. Alliance.

25 Q. That's not bad. You eat breakfast this morning?

Dreger - Cross

1 A. Yes, I did, at home.

2 Q. I have a few questions for you. What was  
3 relationship between you and Mr. Wray? Would you describe  
4 his position?

5 A. Mr. Wray was the director of Ohio Department of  
6 Transportation and a member of the governor's cabinet.  
7 It's the person I reported to in my position, and he was  
8 one of the best people that I've ever worked for.

9 Q. Did you report directly to Mr. Wray on District 4  
10 matters?

11 A. He had an assistant who was a field -- over the  
12 district, and that was Ron Zook. I talked to both of them  
13 a lot. So on the organization chart, I think I reported to  
14 the director, but I worked with both of those closely.

15 Q. Would you memorialize your journal notes with  
16 Mr. Wray?

17 A. I beg your pardon?

18 Q. Would you memorialize down to writing as you did with  
19 Tom Williams a daily journal? Would you include meetings  
20 you had with Zook and/or Wray?

21 A. Oh, yes, uh-huh.

22 Q. Um-hum.

23 Did you discuss projects with Ron Zook or Mr. Wray?

24 A. Occasionally.

25 Q. Did you discuss the Buccis at all with Mr. Wray?

Dreger - Cross

1 A. I can't say for sure. It's likely that at some point  
2 we did, but I don't recall.

3 Q. How many times do you recall where you, in fact, were  
4 interviewed by the Federal Bureau of Investigation?

5 A. With respect to this or in any instance?

6 Q. This case.

7 A. Two or three times, probably.

8 Q. Did you ever see a recorder?

9 A. A report?

10 Q. A recorder, a tape recorder?

11 A. No, I didn't.

12 Q. Where did the meetings usually -- where did they take  
13 place by the way? Where did they meet you?

14 A. In my office.

15 Q. Did they ever meet you at your home?

16 A. No.

17 Q. And how many times did you meet with them?

18 A. I think two or three, but I'm not sure. I don't  
19 think it was more than three.

20 Q. Now, some of the questions I have, you said there  
21 were field engineers?

22 A. Yes.

23 Q. Were the field engineers the hands-on people that  
24 controlled the project of which they were assigned?

25 A. They weren't assigned particular projects. They



Dreger - Cross

1       were -- the department has engineers who are called project  
2       engineers that run, or so to speak, run a project. They  
3       are in daily -- on the site daily, and they're in contact  
4       with the contractor. The field engineers cover the  
5       specific area and kind of supervise the project engineers.

6       Q.     So the field engineers supervise the project  
7       engineers?

8       A.     Yes.

9       Q.     What was Mr. Williams?

10      A.     He was the field engineer.

11      Q.     So he supervised the project engineers in District 4?

12      A.     In -- in general probably one or two counties,  
13      although because of his expertise, he got involved in some  
14      projects, if there were problems in other counties.

15      Q.     Well, do you know if he was involved in supervision,  
16      direct supervision in Mahoning and Trumbull Counties?

17      A.     At the particular time that we talked about earlier,  
18      I -- I don't know -- I don't think he was, but because I  
19      think -- I think it was another county, but I -- I don't  
20      know for sure because they changed assignments sometimes  
21      every couple of years, so --

22      Q.     Well, you testified that there was a Mosquito Creek  
23      project, right?

24      A.     Yes.

25      Q.     Where is that located?

Dreger - Cross

- 1 A. That's in Trumbull County.
- 2 Q. Was Mr. Williams involved with that?
- 3 A. Again, I don't know that that was -- I can't -- I
- 4 don't recall the assignment for that particular year,
- 5 whether that was in an area that he covered or not, but
- 6 he --
- 7 Q. Did you not make a memorialized journal note that Tom
- 8 Williams called you about Jim Traficant and conversation
- 9 with Robert Bucci about Mosquito Lake?
- 10 A. Yes, I did.
- 11 Q. So would it not be a fact that Mr. Williams had an
- 12 interest or was called in at least by someone relative to
- 13 Mosquito Creek?
- 14 A. Yes.
- 15 Q. Do you know if the Mosquito Creek Park was actually
- 16 shutdown pursuant to Mr. Williams' orders?
- 17 A. As far as work on that holiday weekend, there was
- 18 none, right.
- 19 Q. There was no work, right?
- 20 A. Right.
- 21 Q. Did you get any calls from me relative to that?
- 22 A. No, I didn't.
- 23 Q. Now, when you talked with Mr. Wray, did you discuss
- 24 personnel matters?
- 25 A. Sometimes.

Dreger - Cross

1 Q. Did you ever discuss personnel problems with a  
2 Mr. Wild and a Mr. Williams with Mr. Wray?

3 A. I think probably Mr. Wild. I don't -- I know -- I  
4 don't ever recall having any discussion regarding  
5 Mr. Williams.

6 Q. Well, wasn't Mr. Wild one of the -- what was his  
7 position with the company, with ODOT?

8 A. Construction engineer.

9 Q. Was he under Mr. Williams?

10 A. No, he was the supervisor.

11 Q. He was the supervisor?

12 A. Um-hum.

13 Q. To the best of your knowledge, did Mr. Wray ever say  
14 that Mr. Wild and Mr. Williams were controversial  
15 employees?

16 A. No.

17 Q. Thank you.

18 Do I have a tendency at times to speak loud?

19 A. Yes.

20 Q. Did I hug you, by the way, when I met you that day,  
21 do you remember?

22 A. No, I don't. I don't remember.

23 Q. So at some particular point, though, you knew there  
24 was a letter that was sent that Mr. Williams was to be  
25 fired, right?

Dreger - Cross

1 A. Beg your pardon?

2 Q. Was there a letter sent to the department requesting  
3 that Mr. Williams be fired?

4 A. I'm not aware of it.

5 Q. You supervised Mr. Williams, and you knew nothing  
6 about a letter from a Congressman relative to being fired;  
7 is that correct?

8 A. That's correct.

9 Q. Now, you said from '91 to approximately 2001 ODOT got  
10 a lot of big federal government money, didn't they?

11 A. Yes.

12 Q. Where did a lot of the big federal money go, if you  
13 recall, to any special congressional district?

14 A. As far as priority or originally were called  
15 demonstration projects, yes, I believe.

16 Q. Where did they go?

17 A. To your district.

18 Q. A lot of money, wasn't it?

19 A. Yes.

20 Q. A lot of work, wasn't it?

21 A. Yes.

22 Q. A lot of supervision of ODOT personnel, wasn't it?

23 A. Yes.

24 Q. Wasn't it, in fact, perhaps our region widely bid on  
25 by contractors from far away?

Dreger - Cross

1 A. That's a question? I don't understand.

2 Q. Well, because there's so much money there, did it  
3 attract many bids?

4 A. Any place there's work, contractors will go to bid on  
5 it, yes.

6 Q. Do you know if Mr. Williams had any family employed  
7 in District 4?

8 A. No, he didn't.

9 Q. Did Mr. Williams ever tell you he had any family that  
10 worked for District 4 companies?

11 A. No. I don't know about -- prior contractors that may  
12 have been, I don't know. No, I don't -- I don't recall.

13 Q. Well, let me ask you this: Would it be a conflict of  
14 interest for a project engineer in a district to have his  
15 sons work for contractors in that district that  
16 participated in state and federal funded projects? Would  
17 that be a conflict? Yes or no.

18 A. As you describe it, no.

19 Q. But would it be likely that it would be reported?

20 A. We would avoid having the person that -- the  
21 department person that was related to a contractor's  
22 employee on the same project, certainly we would want to  
23 know if that condition existed.

24 Q. So Mr. Williams then never confided in you he had two  
25 sons that were employed by District 4 contractors?

Dreger - Cross

1 A. Not that I know of.

2 Q. Now, when you and I had that conversation, was that  
3 conversation relative to my constituents?

4 A. If the Bucci brothers were your constituents, yes.

5 Q. Did you know if the Bucci brothers were my  
6 constituents?

7 A. I thought they were.

8 Q. Do you remember your Grand Jury testimony when you  
9 appeared on March 29 at this federal courthouse?

10 A. Yes.

11 Q. Do you remember towards the end a Grand Juror asking  
12 you a specific question?

13 MR. KALL: Could you tell us what page?

14 BY MR. TRAFICANT:

15 Q. I'm referring now to Page 41 of your Grand Jury  
16 testimony for the Court to reflect if they would like to  
17 refer to it.

18 Were you asked by a Grand Juror, who was a chairman  
19 of the board of trustees at Lakeland Community College?

20 MR. KALL: Your Honor, I object. This is not  
21 proper use of this Grand Jury.

22 THE COURT: No, there may be something that  
23 he can develop in the questioning that will give you a  
24 basis for going to this.

25 BY MR. TRAFICANT:

Dreger - Cross

1 Q. Did you ever have anybody else of any significance  
2 report to you that they had had some traffic maintenance  
3 problems?

4 A. We had traffic maintenance problems with other  
5 contractors, yes. I don't know for sure --

6 Q. Did a Grand Juror, during your Grand Jury testimony,  
7 question you about one of those particular types of  
8 complaints?

9 A. I don't recall that question.

10 Q. Do you recall a question from the Chairman of the  
11 Board of Trustees of Lakeland Community College at the  
12 Grand Jury testimony?

13 A. I remember there were questions, but I don't recall  
14 the exact question.

15 Q. If I read you the question, might you recall?

16 A. I think.

17 Q. Grand Jury, Page 6, Line 41, "and have you ever --  
18 and I'm dealing somewhat from experience on this line of  
19 questioning. I was Chairman of the Board of Trustees of  
20 the Lakeland Community College. We had a terrible time  
21 with the project, right in front of the entrance. And I  
22 think at that point in time, every U.S. Congressman in that  
23 area and senator called on behalf of the college."

24 Have you had any kind of experience like that? What  
25 was your answer?

Dreger - Cross

1 A. Well, it should have been, first of all, if --  
2 they're not in the district that I worked in. So I don't  
3 know about that specific instance, but I have not had an  
4 instance where that group of legislators have called about  
5 a problem.

6 Q. Did you and Mr. Wray ever have any personal  
7 discussions about Mr. Williams' personal problems?

8 A. No.

9 Q. Did you have contacts with state senators and state  
10 representatives about projects?

11 A. Yes.

12 Q. Would you still have the memorialized notes that you  
13 had taken with Mr. Wray?

14 A. Yes.

15 Q. And they are in your possession somewhere?

16 A. Yes.

17 Q. And I'm sure you've not planned to destroy them  
18 because of my line of questioning, do you?

19 A. No.

20 MR. KALL: Your Honor, these were all  
21 produced in discovery.

22 THE COURT: Okay.

23 BY MR. TRAFICANT:

24 Q. In your Grand Jury testimony, did you say that you  
25 treated the federal politicians, state politicians about

Dreger - Cross

1 the same way?

2 A. Yes.

3 Q. Did you know what Congressman was responsible for  
4 which particular areas in your particular district?

5 A. Yes.

6 Q. Do you know where Lakeland Community College is  
7 located?

8 A. Yes.

9 Q. Where?

10 A. It's -- well, I don't know the name of the location,  
11 but it's off of Interstate 90.

12 Q. And that's not a part of District 4?

13 A. No. Lake County is a part of District 11.

14 Q. Now, you have 12 district directors, don't you?

15 A. Yes.

16 Q. Do you have meetings?

17 A. Yes.

18 Q. Do you discuss concerns and problems of personnel  
19 and/or projects?

20 A. Not in those meetings -- well, projects, but only as  
21 far as the planning for those -- once they get to  
22 construction, they're not discussed in those kind of  
23 meetings.

24 Q. Now, if you had known that Mr. Williams had two sons  
25 working for District 4 contractors, would you have asked

Dreger - Cross

1 and inquired about that relationship?

2 MR. KALL: Objection, speculative.

3 THE COURT: Sustained.

4 Q. Did you ever inquire of any of your personnel if  
5 there was any patronage or family relationship, ever have  
6 discussion with any of your personnel?

7 A. As far as internal personnel relationships between  
8 people that worked directly for the department, we did. As  
9 far as people that we did contract -- or contracted with in  
10 business, we -- I don't know that we ever had that kind of  
11 discussion.

12 Q. Was there an ODOT policy that dealt with family --  
13 direct family members being employed in their respective  
14 district where an ODOT official may have had some  
15 oversight?

16 A. I don't think there was any kind of a policy.  
17 Although again, I would -- myself not had those people from  
18 the same family work on the same contract.

19 Q. Did the Ohio State Government have an Ethics  
20 Committee?

21 A. Yes.

22 Q. Is there an Ethics Committee policy?

23 A. There is regarding personnel -- hiring personnel in  
24 the department.

25 Q. And you have any knowledge of this specificities of

Dreger - Cross

1 those elements within the ethics committees rules and  
2 regulations?

3 A. Not to have any part in hiring immediate family  
4 and --

5 Q. Yes. You have any knowledge of that being addressed  
6 anywhere in that policy?

7 A. As far as ODOT personnel, yes, but not contractors.

8 Q. Well, let me clarify this. Maybe I am not expressing  
9 the question right.

10 You have an ethics policy, and you said yes.

11 A. Yes.

12 Q. As the ODOT director, did Mr. Wray instruct his 12  
13 directors underneath him to be familiar with the ethics  
14 policies?

15 A. Yes.

16 Q. Is there a section that deals with hiring of family  
17 members?

18 A. Yes.

19 Q. What does the policy say?

20 A. Could do it.

21 Q. Can't do what?

22 A. Couldn't hire family members.

23 Q. Now, if you were, for example, Mr. Wild, could he  
24 hire somebody -- what district was Mr. Wild in?

25 A. 4.

Dreger - Cross

1 Q. Could he hire one of his, say, sisters to be a flag  
2 man in District 4?

3 A. No. He -- the family member that's already employed  
4 can have no part in that. There are times when there are  
5 more than one member of a family that worked for the  
6 department, but they'd have to -- they'd have no part in  
7 the hiring process, no supervision over it, no connection  
8 with the hiring process at all.

9 Q. So now you're talking about the ethics process as it  
10 deals with Mr. Wild, if his sister was hired at ODOT,  
11 right?

12 A. Right.

13 Q. Now, what if his sister was hired by a company, a  
14 contractor in District 4, who is under the supervision  
15 ultimately of Mr. Wild, what would the Ethics Committee  
16 rules, to the best of your knowledge, say about that?

17 A. There's no prohibition against that.

18 Q. Is there any recording of that, to the best of your  
19 knowledge?

20 A. No.

21 Q. Do you remember testifying before the Grand Jury that  
22 you damaged a fence on a highway?

23 A. Yes.

24 Q. You know what highway that was?

25 A. No, I don't recall. I know it's in Mahoning County.

Dreger - Cross

1 That's the only location I know. And it was on state  
2 route --

3 Q. Did you later find out who supposedly that property  
4 belonged to?

5 A. I did not ever hear that. After I -- I talked with  
6 the county manager and he went out and looked at the  
7 plants -- the question was raised by your office that a  
8 fence crossed the ditch, and that the -- we had removed the  
9 plants to do some work along the road, and the fence had  
10 not been put back properly.

11 And it was possible for a farm animal to crawl under  
12 the fence in that ditch. And so the county manager had  
13 personnel go back and correct that, and he later told me  
14 that animals in that pasture were your horses.

15 Q. Yes.

16 Did you get any further problems after you fixed the  
17 fence?

18 A. No.

19 Q. Did you fix the fence?

20 A. Yes.

21 Q. Much of the business was maintenance of traffic and  
22 safety when it dealt with many of these projects, was it  
23 not?

24 A. Yes.

25 Q. And was it your policy on the holidays that there

Dreger - Cross

1 would be no work at state parks?

2 A. Our policy really doesn't cover state parks because  
3 we do -- the Department of Transportation doesn't do a lot  
4 of work in the state parks, but there is some small amount  
5 of money allocated for paving within the state parks, and  
6 when there's a contract that covers that, we -- the  
7 Department of Transportation supervises it.

8 This was an exception that happened to be near a  
9 holiday weekend, and that became an issue. Then we -- the  
10 plan probably should have had a note that said no work over  
11 the holiday weekend and didn't, but --

12 Q. So the contract that was signed said there was no  
13 limitation on weekend work. Is that your testimony?

14 A. Right.

15 Q. Did you discuss Mr. Williams' conversation with me as  
16 you had memorialized it on the video here?

17 A. Yes.

18 Q. After he decided to shut it down, did I call you?

19 A. No.

20 Q. To the best of your knowledge, did I call anybody?

21 A. Well, I -- I think the call that you were involved in  
22 I'm not sure of the sequence of events. The part -- the  
23 contractor notified us that he was going to work over the  
24 weekend in the park, and that became a problem for us  
25 because the park people didn't want the contractor working.

Dreger - Cross

1 Q. But actually, the contractor had no prohibition from  
2 working on that holiday, did he, in the contract?

3 A. Well, the Department of Transportation could have  
4 asked him not to, and that was what -- could have happened  
5 at the end, but we had to pay him for his time if we chose  
6 not to because there was no prohibition in the plan.

7 What Tom had done was find some things that were not  
8 in compliance with specifications, and that kept the  
9 Department of Transportation from paying the balance on it.

10 Q. And he was shutdown?

11 A. Right.

12 Q. And did I --

13 A. He was trying to correct the deficiencies, and I  
14 don't know for a fact whether he did or didn't. So I don't  
15 know whether he was paid or not.

16 Q. Was it shutdown?

17 A. Yes.

18 Q. Did I call you ever about the Mosquito Creek project?

19 A. No.

20 Q. Were you above, the boss of Tom Williams?

21 A. Yes.

22 Q. Now, you said you had some relationship with Robert  
23 Bucci in Alliance, Ohio; is that correct?

24 A. He did Asphalt Specialist did a contract for the City  
25 of Alliance while I was city service director.

Dreger - Cross

1 Q. How much work did he do in Alliance?

2 A. Just one contract, and it was a demolition contract.

3 It wasn't a large amount of work.

4 Q. Was his work at that time satisfactory to you?

5 A. That project was.

6 Q. So you knew Robert Bucci?

7 A. Yes.

8 Q. Would you say there was a difference between Robert  
9 and Anthony Bucci, to the best of your knowledge?

10 A. I don't know Anthony very well. I think I've met  
11 him, but I don't know him very well, so I can't really tell  
12 you.

13 Q. So most of your dealings were with Robert Bucci,  
14 weren't they?

15 A. Yes.

16 Q. Do you know if Robert Bucci is still connected with  
17 asphalt paving of any sort, blacktopping?

18 A. No, I don't.

19 Q. Now, you prequalify all contractors, don't you?

20 A. The department does, yes.

21 Q. Now, as one of the 12, right underneath the Ohio  
22 Department of Transportation director, Mr. Wray, you play  
23 any part in this prequalification process?

24 A. No.

25 Q. Are you asked opinions about contractors within your

Dreger - Cross

1 district?

2 A. Probably occasionally, but I don't know that it  
3 carries much weight as far as the prequalification.  
4 There's a set of requirements that they have to meet, and  
5 that's what the determination's based on.

6 Q. Now, is the Ohio Department of Transportation subject  
7 also to certain federal rules and regulations?

8 A. Yes.

9 Q. Do you know if there's a requirement by the federal  
10 government that an employee who may be supervised, a  
11 relative who may be supervised by a parent may be a  
12 possible conflict?

13 A. No.

14 Q. So there's separate requirements between the state  
15 and federal government, right?

16 A. Yes.

17 Q. But they blend together at some point?

18 A. Yes.

19 Q. And demonstration money usually means isn't it a fact  
20 that the federal government gives most of the money?

21 A. The -- those projects have a designated amount for  
22 specific project, and it can be -- most of the project  
23 costs could be a small portion, but it is a fixed amount.

24 Q. Well, let me ask you this: If project X was a  
25 demonstration project to build a bridge in Youngstown, and

Dreger - Cross

1 it had the full 80 percent federal funds, would it not be  
2 foolish for the State of Ohio not to build that bridge?

3 A. I would say so.

4 Q. Were most of the Traficant demonstration projects  
5 fully funded, sir?

6 A. I think pretty -- I would have to say yes, to the  
7 most. I don't know for sure, but I think most.

8 Q. Did you prequalify -- or did you at least inquire  
9 about the prequalifications of the Buccis when they started  
10 to do ODOT work?

11 A. They were prequalified when I came to ODOT, and there  
12 was a short period of time when they lost the  
13 prequalification, and that was when -- in the early '90s.  
14 And then they were -- it was reinstated, and I had no input  
15 on that.

16 Q. But in order for a person or a company to bid on a  
17 contract in Ohio, they had to be qualified by both the  
18 state and the federal government; is that correct?

19 A. That's correct.

20 Q. Now, would it be the owner of the company that would  
21 be prequalified, or would it be the company that would be  
22 prequalified?

23 A. It's the company that's prequalified, and they are  
24 prequalified to do certain kinds of work. They can have --  
25 there are a variety of prequalifications that can be

Dreger - Cross

1       obtained so that one contractor can bid on certain jobs and  
2       not on others, depending on their qualification, but it is  
3       a by company, not by an individual.

4       Q.     Let's say corporation, would it be a corporation that  
5       would be prequalified?

6       A.     Yes.

7       Q.     Not the owner?

8       A.     Right.

9       Q.     Not even a majority owner?

10      A.     Well, the owners are a part of that prequalification.

11      The State knows who the owners are, but the

12      prequalification is to the firm.

13      Q.     Now, you mentioned a company called Prime  
14      Contractors; is that correct?

15      A.     Yes.

16      Q.     Were they prequalified?

17      A.     Yes.

18      Q.     Are you familiar with a contractor by the name of

19      Tony Chick in District 4?

20      A.     I didn't hear the last name.

21      Q.     Chick.

22      A.     No, I'm not.

23      Q.     How about Soda Construction?

24      A.     Yes, yes.

25      Q.     Was Mr. Williams an outspoken guy?

## Dreger - Cross

- 1 A. Very.
- 2 Q. Was he at times a guy that didn't have a lot of  
3 patience?
- 4 A. I would say so.
- 5 Q. Was he at times what you would call gruff?
- 6 A. Not tactful way I would put it, but yes, he could be  
7 gruff.
- 8 Q. Do you remember your Grand Jury testimony, sir? Were  
9 you asked a question if he was gruff, do you recall your  
10 answer?
- 11 A. No, I don't.
- 12 Q. Were you afraid of Tom Williams?
- 13 A. No.
- 14 Q. Was he afraid of you?
- 15 A. I doubt it, although I don't know.
- 16 Q. Are you gruff?
- 17 A. I would say no.
- 18 Q. Would you consider yourself to be a man of patience?
- 19 A. Yes.
- 20 Q. Would you consider yourself to be not outspoken?
- 21 A. Yes.
- 22 Q. Were the Buccis gruff?
- 23 A. Well, they were -- they got the point across, I  
24 guess. I don't know what I'd call gruff or not.
- 25 Q. Were they outspoken?

Dreger - Cross

1 A. Yes.

2 Q. Did they have a lot of patience?

3 A. I would say not a lot, no.

4 Q. Do you know if there were ever any complaints about  
5 Mr. Williams?

6 A. Yes. I think that there were.

7 Q. Can you name some?

8 A. Well, Tom was our expert on contract specifications,  
9 and when we had issues with the contractor where the  
10 contractor was failing to meet -- and some of these get  
11 really fine in detail, and Tom knew the specifications,  
12 would probably help write them and could quote them better  
13 than anybody else we had.

14 So if there was an issue between a contractor and us  
15 regarding specifications, Tom usually got involved, and  
16 because of that, a lot of times, the contractor would  
17 complain that he was being too strict on them.

18 Q. You'd get complaints he's being too strict?

19 A. Yes.

20 Q. Do you recall how many different contractors might  
21 have made those complaints?

22 A. No. I'd say that I was probably aware of a half  
23 dozen or so.

24 Q. So Bucci was one of a half dozen?

25 A. Yes.

## Dreger - Cross

1 Q. Do you know if any of those other ones came from  
2 District 4?

3 A. Yes.

4 Q. Do you know if they came to me or came to you? Did  
5 they ever come to you?

6 A. Yes, to me.

7 Q. Did you ever notify me of those complaints?

8 A. No.

9 Q. Isn't it a fact we would have had another breakfast?

10 MR. KALL: Objection, speculative.

11 THE COURT: Sustained.

12 Q. Do you recall relative to your memorialized notes  
13 that on May 8, 1991, that you talked with Jerry Wray  
14 regarding Robert Bucci and Palic Scald?

15 A. No, I don't.

16 Q. You do not recall that from your Grand Jury  
17 testimony?

18 A. No.

19 Q. Was one of their complaints a Palic Scald?

20 A. That name doesn't ring any bells with me, no.

21 Q. Now, do you remember being asked the question about  
22 calling your boss in Columbus directly, Mr. Wray, and to do  
23 whatever he had to do regarding the Bucci problems?

24 A. I'm sorry --

25 Q. In your Grand Jury testimony, do you recall being

Dreger - Cross

1 asked: "Did you call Mr. Wray and ask his advice about  
2 what to do with the Bucci problems"?

3 THE COURT: You need to ask the question.  
4 You just made a statement.

5 MR. TRAFICANT: Yes.

6 Q. You were asked at the Grand Jury, "did you ever call  
7 Mr. Wray regarding the Buccis." Did you, in fact, do that  
8 or not?

9 A. I don't recall.

10 Q. You're now retired or still active?

11 A. I retired from the Department of Transportation. I  
12 work part-time now in Stark County.

13 Q. The Grand Jury testimony was March 29, 2000. Does  
14 that ring a bell?

15 A. Yes.

16 Q. And you could have forgotten many of your answers to  
17 these questions?

18 A. Yes.

19 Q. Did you ever meet my brother?

20 A. I believe he was at the meeting we had at Perkins  
21 Restaurant, but I wouldn't know if I saw him, no.

22 Q. Could you describe the economic conditions of the  
23 general Youngstown area relating to the rest of the State  
24 over a period of time that you worked for ODOT?

25 A. For what time? The economy was one of the poorest,

Dreger - Cross

1 at least, in the northeast part of the state.

2 Q. Is it not a fact that jobs were very important back  
3 there?

4 A. Yes.

5 Q. Are road projects job producers?

6 A. Yes.

7 Q. Now, is it a fact that a contractor may have 50  
8 employees, but might not there be on a given project with  
9 subcontractors and other groups and suppliers, as many as a  
10 hundred, 100 people that would work on these projects?

11 A. Yes.

12 Q. So, for example, if a company had a bid, and they had  
13 50 or 100 employees, it would just not be the 50 or 100  
14 employees that would be working on the project, would it?

15 A. No.

16 Q. More than likely be at least two to three times that  
17 amount when you got suppliers, subs, equipment deliverers,  
18 et cetera, et cetera. Would you agree with that?

19 A. That's correct.

20 Q. Would you believe with the temperament of  
21 Mr. Williams and the Buccis that they would come to  
22 arguments?

23 A. Yes, quite possible.

24 Q. Did you at any time ever consider assigning someone  
25 else to deal with the Buccis?

Dreger - Cross

1 A. Well, others were assigned to deal with those, but  
2 when -- and Tom wasn't the only one that had problems  
3 dealing with the Bucci brothers. Tom only got involved  
4 because other people were having a difficult time and as a  
5 supervisor, he came into the picture then.

6 Q. After we had that meeting in Canfield when you left,  
7 did you say you went and had breakfast?

8 A. Yes.

9 Q. You didn't have an upset stomach over the meeting?

10 A. No.

11 Q. Now, when contractors around the state get into a  
12 little technical problem on bidding -- or let's just keep  
13 it to your district -- don't they fight and contend like  
14 mad to win that bid?

15 A. Yes.

16 Q. Seeking an advantage.

17 Isn't it a fact that there are other contractors that  
18 did many of the same things but maybe in a different tone  
19 or in a different behavior mode?

20 A. There were other contractors that caused the  
21 Department of Transportation problems, that we had trouble  
22 getting compliance with, yes.

23 Q. So the Buccis weren't the own ones?

24 A. No.

25 Q. Other companies would complain, too, wouldn't they?



Dreger - Cross

1 A. Yes.

2 Q. Now, if a company was a low bidder and they were  
3 prequalified, should they get the work?

4 A. Yes.

5 Q. Now, when they get that work, do they get a contract?

6 A. Yes.

7 Q. Does it stipulate specifically what they can and  
8 cannot do and what the requirements are?

9 A. Yes.

10 Q. Was it a failure on behalf of ODOT on the Mosquito  
11 Creek project to have not included the non-holiday work?

12 A. My thinking is it should have been included in the  
13 plan, but it wasn't. I wouldn't call it failure because it  
14 was still possible to do the project even without that.

15 Q. Isn't it a fact that you didn't basically do state  
16 parks; you did roads, but you accommodated the state park  
17 system because you were a paving and responsible for  
18 surface transportation, isn't that a -- would that be a  
19 correct analysis, sir?

20 A. That's pretty close. I think some of the parks'  
21 money comes from ODOT and specifically for those kind of  
22 projects, and so that ODOT administers those.

23 Q. Now, when you have a huge contract, a big contract,  
24 isn't that a highly competitive process?

25 A. Yes.

Dreger - Cross

1 Q. Did any other member of the 12-member team that  
2 reported to Mr. Wray ever say they had a congressman call  
3 them about one of their contractor constituents to the best  
4 of your knowledge?

5 A. I don't recall any.

6 Q. Did anyone in District 4, other than me, ever call  
7 you?

8 A. No, not about a contractor.

9 Q. Did you ever notify me of any District 4 companies  
10 who were complaining to you?

11 A. No.

12 Q. Did you ever see a letter that was sent to fire or  
13 where I recommended that Tom Williams be fired for cause?

14 A. I don't recall that.

15 Q. Would that letter have gone to you or Mr. Wray?

16 MR. KALL: Objection.

17 THE COURT: He says he doesn't recall whether  
18 there was such a letter. So this isn't a person who can  
19 tell you where such a letter if it existed could have  
20 gone.

21 Q. Did you ever receive a memo from Mr. Williams  
22 relative to Mosquito Creek Lake controversy?

23 A. Not that I recall.

24 Q. Do you recall the Grand Jury asking you that?

25 A. No.

Dreger - Cross

1 Q. You remember being asked by the Grand Jury that the  
2 Buccis attempted to go over your head?

3 THE COURT: Don't answer. You will have to,  
4 without the jury present, establish some reason why you can  
5 get into that. It's the same situation we discussed  
6 before. And you can do that at noon.

7 MR. TRAFICANT: Okay.

8 BY MR. TRAFICANT:

9 Q. Do you have knowledge that I went to either Mr. Wray  
10 or Mr. Misfud relative to any problem in District 4?

11 A. No, I don't.

12 Q. Page 33, my issue is marked.

13 THE COURT: What is this you're going to look  
14 at?

15 MR. TRAFICANT: His Grand Jury testimony.

16 MR. KALL: Your Honor, we'd object. It's not  
17 inconsistent.

18 THE COURT: We're getting close to a lunch  
19 break. You can go on to something else. They posed an  
20 objection, and instead of me trying to resolve it right  
21 now, why don't you go on to the next thing, and we'll  
22 handle this at lunch.

23 BY MR. TRAFICANT:

24 Q. Did anyone ever tell you that the Buccis had gone to  
25 Paul Misfud?

Dreger - Cross

- 1 A. No.
- 2 Q. Who was Paul Misfud?
- 3 A. Governor Voinovich's chief of staff .
- 4 Q. Did anyone ever tell you the Buccis often contacted
- 5 Paul Misfud?
- 6 A. No.
- 7 Q. Could it be that some of the things that you
- 8 discussed with others over a period of time would not have
- 9 been memorialized in your diary?
- 10 A. Well, I would think so.
- 11 Q. Now, if you had a discussion with Mr. Wray, the ODOT
- 12 director, would that be in your diary?
- 13 A. Most likely.
- 14 Q. Are you familiar with your personnel record?
- 15 A. With my personnel record?
- 16 Q. Yes.
- 17 A. I think so.
- 18 Q. What is kept in a personnel record of ODOT's?
- 19 A. Your -- well, I'm not sure that I know what all is in
- 20 a particular record, but certainly application and any kind
- 21 of action taken, disciplinary action taken by the
- 22 department against an employee, your seniority and pay
- 23 rate, those kind of things.
- 24 Q. If there were complaints about an employee, would
- 25 they be listed in the personnel file?

Dreger - Cross

1 A. Only if it resulted in some discipline.

2 Q. If there were, for example, a letter written to you  
3 by me, would that be in your personnel file?

4 A. If it resulted in discipline.

5 Q. Would your medical records be in your personnel file?

6 A. I don't know that there's any medical records that  
7 the department had. In some of the personnel, myself,  
8 there was a background check, which would have been  
9 included, but not everybody got that background check.

10 Q. If a letter would have been received from a  
11 representative of the federal government to the Ohio  
12 Department of Transportation regarding the person, would it  
13 be in their personnel file?

14 A. Again, if it resulted in a discipline, it probably  
15 would be.

16 Q. And if it was not in the personnel file, where would  
17 it be?

18 A. Probably in the file, whoever received the letter.

19 Q. But it would be maintained, wouldn't it?

20 A. I would think so.

21 Q. Did Mr. Williams have supervision over the people who  
22 supervised the actual laying of the road work?

23 A. Yes.

24 Q. So if company X got a job to do Jones Street or Route  
25 11, for example, do you know where Route 11 is located?

Dreger - Cross

1 A. Yes.

2 Q. Is that a main artery in the -- in your district, one  
3 of the main arteries, would you say?

4 A. Yes. It's one of the larger facilities. It's not --  
5 I don't know that it's a main artery with regard to the  
6 volume of traffic, but it's one of our bigger arteries.

7 Q. Would 80 be one of the main arteries?

8 A. Yes.

9 Q. Would Mr. Williams have control over those workers?

10 A. Well, again, he worked in general supervision and was  
11 not over the entire district at any particular time, but  
12 when there was a problem, he was our best qualified person  
13 to resolve dispute or to work it out, and so he had become  
14 involved in those projects that had problems, but he did  
15 not work on any involvement with any project.

16 Q. Seemed like a troubleshooter?

17 A. You could call him that, I think.

18 Q. Was there ever any communication in writing between  
19 you and Mr. Wray relative to either Mr. Wild or  
20 Mr. Williams?

21 A. I don't know. I -- I couldn't tell you the answer to  
22 that.

23 Q. If there were, would you have memorialized it in your  
24 records?

25 A. Not necessarily, though I would have kept a copy of

Dreger - Redirect/Kall

1 the letter.

2 MR. TRAFICANT: No further questions at this  
3 time.

4 THE COURT: Okay. You may inquire.

5 REDIRECT EXAMINATION OF DAVID DREGER

6 BY MR. KALL:

7 Q. Mr. Dreger, Congressman Traficant asked you questions  
8 of -- regarding whether he contacted you after Tom Williams  
9 had the telephone call with him regarding Mosquito Lake?  
10 Do you recall those questions?

11 A. I'm sorry. I didn't hear the first part.

12 Q. Do you recall when Congressman Traficant asked you  
13 questions regarding whether or not he ever contacted you  
14 regarding the Mosquito Lake project, do you recall those  
15 questions that you were asked before?

16 A. Yes, yes.

17 Q. Did anyone at ODOT ever tell you Paul Marccone,  
18 Congressman Traficant's chief of staff and Congressman  
19 Traficant, spoke to Jerry Wray, the director of ODOT in  
20 June of 1995 regarding Tom Williams?

21 A. No.

22 MR. KALL: No questions.

23 THE COURT: Thank you.

24 RECROSS-EXAMINATION OF DAVID DREGER

25 BY MR. TRAFICANT:

## Dreger - Recross

1 Q. So you have a letter now that comes -- I'm  
2 assuming -- do you remember meeting with the federal  
3 government on January 13th, Year 2000, telephonically?

4 A. I don't recall, no, without more specific information  
5 than that anyway.

6 Q. Did you have a telephone conversation any time with a  
7 Special Agent by the name of Mark Denholm?

8 A. Yeah, could have.

9 Q. You did have a telephone conversation some time, but  
10 you don't remember the date; is that correct?

11 A. No.

12 Q. Did he specifically ask you questions about Mr. Wray?

13 A. He may have. I don't recall.

14 MR. TRAFICANT: Gentlemen, 1-13-2000. Do you  
15 have a clean copy? Mr. Wray's --

16 MR. KALL: That one? I don't have 1-13 on  
17 that.

18 MR. MORFORD: What is it?

19 MR. TRAFICANT: 1-13-2000.

20 MR. MORFORD: That's Jerry Wray's?

21 MR. TRAFICANT: Yes, I'm asking questions  
22 relative to this witness. You just brought up Mr. Wray on  
23 redirect.

24 THE COURT: I know, but what is it you have  
25 there that you want to talk about?

Dreger - Recross

1 MR. TRAFICANT: This is pertinent.

2 THE COURT: Okay. Why don't you give me a  
3 minute?

4 MR. KALL: We'd object, and maybe this is  
5 something we can discuss over lunch.

6 MR. TRAFICANT: Your Honor, I ask for a side  
7 bar at this time.

8 THE COURT: Well, what we'll do is recess the  
9 jury so that you can have lunch, and we'll spend our lunch  
10 trying to figure out how this might be used.

11 MR. TRAFICANT: Fine. Can I have my copy?

12 THE COURT: All right. We'll be in recess  
13 until 1:30 as usual. Enjoy your lunch, and remember all  
14 your admonitions, thank you.

15 (Proceedings in the absence of the jury:)

16 THE COURT: In a moment, the jury will come  
17 out. We'll wait until they've come. So you can stand or  
18 not as you wish. You don't need to remain standing, but it  
19 may feel good. Those are hard benches.

20 MR. TRAFICANT: Your Honor, if I can  
21 continue, on redirect, Mr. Wray's name was brought up by  
22 Mr. Kall. This witness and several of his Grand Jury  
23 statements -- I have nothing against him -- said -- it is  
24 possible you may not recall -- and he said it's possible  
25 even, though it was inconsistent with his Grand Jury

Dreger - Recross

1 testimony. But now Mr. Wray -- and I want to read for the  
2 record why this is impeachable.

3 THE COURT: Okay. What I need you to do is  
4 give a number to that like we do with every document so you  
5 have a record for the Court of Appeals.

6 MR. TRAFICANT: How about if we make it --

7 THE COURT: Call it something that's not a  
8 document that I have up here that I know of.

9 MR. TRAFICANT: Okay. Let's call it JW --  
10 let's call it DD-10.

11 THE COURT: Okay. All right. So just to  
12 continue on now, you want to use this document with this  
13 witness who's on the stand as I understand it?

14 MR. TRAFICANT: If I'm not allowed to go  
15 further with this witness, then I would simply just drop it  
16 and subpoena Mr. Wray. In fact, after looking at it, I  
17 will subpoena Mr. Wray.

18 THE COURT: Okay. I just don't know -- it's  
19 a document -- just say out loud the --

20 MR. TRAFICANT: "Wray recalled that Traficant  
21 was supportive of ODOT initiative" --

22 THE COURT: This is about Wray, Wray's not --

23 MR. TRAFICANT: Okay. But hear me.

24 THE COURT: But he's not on the stand. Okay?  
25 And he's not the agent who's on the stand either.

Dreger - Recross

1 MR. TRAFICANT: No.

2 THE COURT: Who is on the stand who is -- is  
3 connected with this document?

4 MR. TRAFICANT: He is directly under  
5 Mr. Wray, and Mr. Wray is talking about now two of his  
6 employees to the Grand Jury.

7 THE COURT: Mr. --

8 MR. TRAFICANT: And Mr. Wray said --

9 THE COURT: No. This is not a Grand Jury  
10 statement.

11 MR. TRAFICANT: No, it isn't. It's a 302.

12 THE COURT: Right.

13 MR. TRAFICANT: But he says to the FBI --

14 THE COURT: This is Mr. -- but it's of  
15 Mr. Wray, right?

16 MR. TRAFICANT: Do you want me to call  
17 Mr. Wray?

18 THE COURT: No. I want to know what you  
19 intend to do with this particular witness who's on the  
20 stand and this document so that I can decide.

21 MR. TRAFICANT: I want to ask him again if he  
22 had conversation with his boss about two of his project  
23 engineers who were controversial employees, and several  
24 people thought they should fire Williams and Wild, and  
25 Traficant may have raised that issue with Wray, several

Dreger - Recross

1 people who thought Wray --

2 THE COURT: Okay. Would you like to respond?

3 MR. KALL: Your Honor, our response would be  
4 this has been asked and answered. The witness said he did  
5 not recall. He can't be impeached by a 302, especially  
6 when it's not his own 302. If Congressman Traficant wants  
7 to subpoena Mr. Wray, he has that right, but it's improper  
8 impeachment at this point.

9 THE COURT: Thank you. And for those  
10 reasons, the objection is sustained.

11 Now, let's go have lunch.

12 MR. TRAFICANT: Thank you.

13 MR. KALL: Your Honor, if I can ask one  
14 thing: Are there further questions for Mr. Dreger, or can  
15 we let him go?

16 MR. TRAFICANT: No. I have further  
17 questions.

18 THE COURT: Fine. We'll keep him.

19 (Thereupon, a luncheon recess was had.)  
20  
21  
22  
23  
24  
25

## Dreger - Recross

1 Wednesday Session, March 6, 2002, at 1:30 P.M.

2 THE COURT: Sir, you're still under oath.

3 Congressman?

4 BY MR. TRAFICANT:

5 Q. I just have a few more questions. You were asked  
6 about a letter from the Washington office. The prosecutors  
7 asked you before the break, do you know if that was kept in  
8 the file?

9 MR. KALL: Objection. There was no such  
10 question.

11 MR. TRAFICANT: On redirect?

12 THE COURT: I don't know which question  
13 you're referring to. You want -- we can look for one.

14 MR. TRAFICANT: A letter from Mr. Marccone in  
15 the Washington office was referred to, having been sent to  
16 ODOT. Are you familiar with that, sir?

17 THE WITNESS: No, I'm not.

18 THE COURT: There was mention of Marccone, the  
19 Marccone name was used.

20 Q. In your Grand Jury testimony, you were asked a  
21 question whether or not you had talked with Mr. Wray about  
22 Robert Bucci and a man name Palic Scald. Do you recall  
23 that question?

24 A. No, I don't.

25 Q. Do you know if you were called and were talked to by

## Dreger - Recross

1 your boss?

2 A. No, I don't recall. It's possible.

3 Q. Could we refresh your memory if I ask you the  
4 question?

5 THE COURT: Is this a question from his Grand  
6 Jury testimony?

7 MR. TRAFICANT: It's relative to Exhibit 6.

8 Q. It was your answer that you made relative to a phone  
9 conversation on May 8, 1991.

10 THE COURT: Can you give us a page?

11 MR. TRAFICANT: Page 22, Line 14 through Page  
12 23, Line 2.

13 THE COURT: You mean Exhibit 6 during these  
14 proceedings?

15 MR. TRAFICANT: It was Government's Exhibit  
16 6.

17 THE COURT: Okay. But so the record is  
18 clear, he doesn't mean Exhibit Number 6 in this case, in  
19 this immediate case; he's talking about something on Page  
20 22, Line 13. Okay?

21 MR. TRAFICANT: My copy is marked. I was  
22 going to have him read such.

23 THE COURT: Why don't you give me your  
24 copy -- oh, well. That's the only copy.

25 MR. TRAFICANT: It's not that bad.

Dreger - Recross

1 THE COURT: Well, I don't mind reading if you  
2 want to --

3 BY MR. TRAFICANT:

4 Q. Just read from Line 14 through Line 16.

5 A. That's from Thursday, May 8, 1999 to --

6 Q. Could you speak up a little louder, Mr. Dreger, so we  
7 can hear you?

8 A. That's from May 8, 1991, talked to Jerry Wray  
9 regarding Robert Bucci and Palic Scald. Jerry says to do  
10 what is necessary. He will support me.

11 Q. Now --

12 MR. TRAFICANT: Your Honor, can I have mine  
13 unredacted?

14 Q. Now, do you remember a conversation?

15 A. That one that's referred to in the -- what I just  
16 read?

17 Q. Yes.

18 A. No, I don't.

19 Q. Well, you said you kept a note journal, and this is  
20 your boss that called you. Would you have made a journal  
21 entry in your diary on this?

22 A. I probably -- that looks like that's what it is, but  
23 I don't recall all those entries.

24 Q. So you wouldn't know if you had written this into  
25 your diary or not. Is that your testimony?

## Dreger - Recross

1 A. That's right.

2 Q. Did I ever ask you or anyone at ODOT to steer  
3 projects towards any contractors in my district?

4 A. You didn't ask me. I don't know about anyone at  
5 ODOT.

6 Q. Did I ever threaten you with an ODOT investigation?

7 A. No.

8 Q. Did the Buccis get a lot of work in the Mahoning  
9 Trumbull area?

10 MR. KALL: Your Honor, I'd object. It was a  
11 very narrow redirect, and it's way beyond the scope.

12 THE COURT: You can go forward. You can  
13 answer.

14 A. I don't know whether -- how to classify it as a lot.  
15 They had several projects, probably average of two or three  
16 a year.

17 Q. Would you say it would be in an advantage for a local  
18 company who had their product making facility nearby to be  
19 more competitive than someone located further away?

20 A. Yes.

21 Q. Did the Buccis have a centrally located facility?

22 A. Yes.

23 Q. Was it near the freeway system?

24 A. Yes.

25 MR. TRAFICANT: No further questions.

Pannutti - Direct/Kall

1 THE COURT: Thank you. Questions?

2 MR. KALL: Nothing further, your Honor.

3 THE COURT: Thank you, sir. You can step  
4 down. You're excused.

5 EDWARD PANNUTTI

6 of lawful age, a witness called by the Government,

7 being first duly sworn, was examined

8 and testified as follows:

9 DIRECT EXAMINATION OF EDWARD PANNUTTI

10 BY MR. KALL:

11 Q. Could you please state your name, and spell your last  
12 name?

13 A. Edward Pannutti, P-A-N-N-U-T-T-I.

14 Q. Where do you live, Mr. Pannutti?

15 A. I live in Hillsboro, Pennsylvania.

16 Q. Have you ever worked for a company named Hardrives  
17 Paving and Construction?

18 A. Yes.

19 Q. What type of business was Hardrives in?

20 A. Asphalt paving.

21 Q. Where was it located?

22 A. Middle Ridge, Ohio.

23 Q. What city is Middle Ridge near?

24 A. It's nearby Niles, Austintown.

25 Q. Is that just outside of Youngstown?

Pannutti - Direct/Kall

- 1 A. Yes.
- 2 Q. Who owned Hardrives?
- 3 A. James Sabatine.
- 4 Q. What was your title with Hardrives?
- 5 A. I was plant operator, asphalt crane operator.
- 6 Q. How long did you work there?
- 7 A. 17 years.
- 8 Q. What years are we talking about?
- 9 A. From 1983 until 2000.
- 10 Q. What were your responsibilities?
- 11 A. My responsibilities, I made the asphalt everyday and  
12 dispatched trucks and jobs.
- 13 Q. Who was the main competitor for Hardrives in the  
14 Youngstown area?
- 15 A. That would be Prime Contractors.
- 16 Q. And who was Prime Contractors run by?
- 17 A. Bucci brothers.
- 18 Q. Do you recall a contract for the paving of roads in  
19 Mahoning County for the year 1996?
- 20 A. Yes.
- 21 Q. Do you recall how much this project was worth?
- 22 A. It was right around a million dollars.
- 23 Q. Is that a fairly sizeable contract?
- 24 A. Yes. It's a nice size contract for a county job.
- 25 Q. Do you recall who the County Engineer was in 1996?

Pannutti - Direct/Kall

- 1 A. Bill Fergus.
- 2 Q. In 1996, was there any indication that Mr. Fergus was  
3 going to be continuing in his job?
- 4 A. I don't know if I understand the question.
- 5 Q. Is Mr. Fergus still the County Engineer?
- 6 A. No.
- 7 Q. Did he lose an election at some point?
- 8 A. Yes.
- 9 Q. Do you recall when that was?
- 10 A. I believe it was '96.
- 11 Q. And did he lose in the primary election or in the  
12 general election?
- 13 A. He lost, I think, the primary.
- 14 Q. And was that in the early part of 1996?
- 15 A. May, I believe.
- 16 Q. And he continued to serve as the engineer until the  
17 general election?
- 18 A. Yes.
- 19 Q. So at that point in '96, would he be known as a lame  
20 duck?
- 21 A. Yes.
- 22 Q. Did Hardrives place a bid for the Mahoning County  
23 paving contract?
- 24 A. Yes.
- 25 Q. Did you receive that contract?

Pannutti - Direct/Kall

1 A. No, we didn't.

2 Q. Were you the low bidder?

3 A. I considered us to be the low bidder, but the county  
4 didn't.

5 Q. Why not?

6 A. We were low bid on the asphalt part of the job. I  
7 think it was -- we were a nickel lower per ton on the  
8 asphalt part of the job, and we were higher on the tack  
9 coat, and --

10 MR. TRAFICANT: Will you explain -- repeat  
11 that.

12 THE WITNESS: We were lower on the asphalt  
13 bid. There was two parts of the bid: There was asphalt  
14 and tack coat. Tack coat goes on the road before the  
15 asphalt.

16 MR. TRAFICANT: Thank you.

17 A. And the Bucci brothers spent five cents a gallon, if  
18 I remember right, five or 10 cents a gallon on the tack  
19 coat and on specifications required you to bid a job at  
20 least at the cost of a bid item. Tack coat at that time  
21 was over 50 cents a gallon, and their bid was unbalanced, I  
22 felt, since we had the lower asphalt price anyways. The  
23 job should have been ours, but they didn't give it to us.

24 Q. The total bids on overall costs, who was lower, you  
25 or the Buccis?

Pannutti - Direct/Kall

1 A. Overall, I think they were lower than we were.

2 Q. Who was awarded the contract?

3 A. Bucci brothers were awarded the contract.

4 Q. Now, based on what you described with this tack coat,  
5 did you feel that you had a grounds for challenging the  
6 award of the contract to the Buccis?

7 A. Yes, I did.

8 Q. Did you see what you could try to do to get the  
9 contract away from them after it was awarded?

10 A. After it was awarded, I don't think I tried to do  
11 anything. Before it was awarded, I tried to do some things  
12 to try to save the job.

13 Q. Did you ever contact the County Engineer, Mr. Fergus,  
14 regarding this contract?

15 A. Yes, I did.

16 Q. Take a look at Exhibit 2-59, which is in front of  
17 you.

18 MR. TRAFICANT: 2-59?

19 MR. KALL: Yes.

20 Q. Do you recognize this?

21 A. Yes, I do.

22 Q. What type of a document is it?

23 A. It's a letter to Bill Fergus.

24 Q. From whom?

25 A. From myself.

Pannutti - Direct/Kall

1 Q. And whose stationery is it on?

2 A. Hardrives Paving and Construction.

3 Q. And when is it dated?

4 A. September 24th, 1996.

5 Q. Was this letter made and maintained in the normal  
6 course of Hardrives' business?

7 A. I'm sorry?

8 Q. Was this letter made and maintained in the ordinary  
9 course of business at Hardrives?

10 A. Yes.

11 MR. KALL: Your Honor, may I put this on the  
12 overhead?

13 THE COURT: Certainly.

14 Q. Could you please read the first couple paragraphs of  
15 the body of the letter?

16 A. At the bottom?

17 Q. Body of the letter, the first three paragraphs,  
18 please?

19 A. "On Wednesday, July 31, 1996, at 1:20 P.M., Hardrives  
20 Paving and Construction submitted a bid for resurfacing the  
21 various roads in Mahoning County.

22 "The bids were open, and Prime Contractors of Girard,  
23 Ohio, and Hardrives Paving Construction, Incorporated were  
24 the lowest two qualified bidders. Prime Contractors was  
25 awarded the bid August 29, 1996, with notice to proceed on

Pannutti - Direct/Kall

1 September 5, 1996."

2 Q. Let me stop you there.

3 According to your letter, the contract was awarded at  
4 the end of August, correct?

5 A. Yes.

6 Q. And you sent this letter to Mr. Fergus approximately  
7 a month later, correct?

8 A. Yes, September 24th.

9 Q. Why were you sending this letter?

10 A. Prime Contractors was supposed to start the job, to  
11 proceed September 5, and as of September 24th, they still  
12 hadn't started the job yet, and from what I heard around  
13 town, they weren't going to start the job for a little  
14 while longer. And I was trying to get the job back because  
15 we weren't busy. We could do the job, and they were busy,  
16 and they couldn't start the job. They didn't start it on  
17 time according to the specifications.

18 Q. Is there a problem with starting a job into  
19 September, or this letter is September 24th -- into  
20 October?

21 A. I'm sorry. I didn't hear you.

22 Q. Let me rephrase my question.

23 As you get later in the season, does it become more  
24 difficult to get the pavement work done?

25 A. Yes.

Pannutti - Direct/Kall

1 Q. Why?

2 A. Well, a contract of that size I believe would have  
3 taken probably I think we planned on two months on the job.  
4 And that would put us in the winter, and you can't lay  
5 asphalt in cold weather.

6 Q. After you sent this letter to Mr. Fergus, did you  
7 ever get a response back from him?

8 A. No, I don't think I did.

9 Q. Did you ever have any meeting with Mr. Fergus  
10 regarding the '96 pavement contract?

11 A. Yes, I did. It was --

12 Q. How did that meeting get set up?

13 A. I -- I am trying to remember exactly how it happened,  
14 but when the -- the bids were open, and I thought we were  
15 low bidder. I called him up, and I believe I sent letters  
16 to the commissioners, also explaining that their bid was  
17 unbalanced, and we should have been awarded the job.

18 And a couple of days after I sent those letters, I  
19 got a call from Bill Fergus, and he wanted me to meet with  
20 him at Perkins Restaurant in Poland. It was on a Saturday.  
21 I met him there, and when I walked in, he was sitting with  
22 Chuck O'Nesti.

23 Q. Did you know who Mr. O'Nesti worked for?

24 A. Yes, I did.

25 Q. Who did he work for?

Pannutti - Direct/Kall

1 A. For Mr. Traficant.

2 Q. Did the topic of the '96 paving contract come up at  
3 that breakfast meeting?

4 A. Yes, it did.

5 Q. What was Mr. O'Nesti's position regarding this?

6 A. His position was that I was to quit writing letters.  
7 I was to quit making calls about the job because the job  
8 has gone to the Bucci brothers, and there was nothing we  
9 were going to do about it.

10 He -- he threatened me in a way. I mean, I was -- I  
11 was a little scared at the meeting.

12 Q. What was his tone of voice?

13 A. It was real rough, real harsh.

14 Q. What did you do as a result of this?

15 A. I -- Mr. Sabatine was out of town at the time. He  
16 was in Florida. That's the whole reason that I ended up  
17 meeting Fergus over this matter. And I just laid off. I  
18 quit -- I quit my attempts to get the job. I just laid off  
19 until -- until this September when they were supposed to  
20 start the job, and they didn't start it, and we were trying  
21 to get the job back.

22 Q. Were you able to get the job away from the Buccis?

23 A. No.

24 Q. Do you know if they did the work?

25 A. Yes, they did.



Pannutti - Direct/Kall

1 Q. Are you testifying here today pursuant to the terms  
2 of a plea agreement?

3 A. Yes.

4 Q. What did you plead guilty to doing?

5 A. I pled guilty to two-count mail fraud.

6 Q. What was the conduct involved in those mail fraud  
7 charges?

8 A. I threatened -- asphalt slips that were sent out to  
9 jobs for asphalt that was never delivered.

10 Q. As a result of those tickets getting sent out to  
11 jobs, what happened? Was the company reimbursed for those  
12 tickets?

13 A. No.

14 Q. Was the company paid --

15 A. I'm sorry. Yeah, the company was paid for the  
16 tickets. Yes, I'm sorry.

17 Q. It was for asphalt that had never been delivered?

18 A. Exactly, yes.

19 Q. You were first interviewed by law enforcement  
20 officers in January of this year regarding that conduct,  
21 correct?

22 A. Yes, sir.

23 Q. And you were not completely truthful with them at  
24 that time, were you?

25 A. No.

Pannutti - Direct/Kall

1 Q. What is your understanding of the sentence that you  
2 face under the terms of your plea agreement?

3 A. I believe it's a Level 9, four to ten months.

4 Q. And has the Government promised you anything as part  
5 of that agreement?

6 A. No. I was just told if I cooperated I might get a  
7 three-level reduction that would make it zero to six  
8 months.

9 Q. So you agreed to cooperate with the Government?

10 A. Yes.

11 Q. Are you testifying here today as part of that  
12 cooperation?

13 A. Yes, I am.

14 Q. Is this the only case in which you are providing  
15 cooperation to the Government?

16 A. No.

17 Q. And you may be called to testify it's your  
18 understanding in other case, correct?

19 A. Yes.

20 Q. Who do you understand has the ultimate decision on  
21 what your sentence will be?

22 A. The judge.

23 Q. Do you know who negotiated that plea agreement?

24 A. My attorney.

25 Q. And do you know who from the Government he negotiated

Pannutti - Cross

1 with?

2 A. Mr. Blake, Richard Blake.

3 Q. And he's another Assistant U.S. Attorney?

4 A. Yes.

5 MR. KALL: Can I have one moment? No further  
6 questions right now, your Honor.

7 THE COURT: Thank you.

8 CROSS-EXAMINATION OF EDWARD PANNUTTI

9 BY MR. TRAFICANT:

10 Q. How are you doing, Edward?

11 A. Okay, sir.

12 Q. Did I have occasion to try to reach you in the last  
13 couple weeks?

14 A. Pardon me?

15 Q. Did I have occasion to try to call you on the phone  
16 the last couple weeks?

17 A. Yes, called me at my house.

18 Q. Did we discuss anything about this case?

19 A. Pardon me?

20 Q. Did we discuss anything about this case?

21 A. You called -- you wanted to know if I had any  
22 information on Jim Sabatine and Tom Williams, an ODOT  
23 inspector.

24 Q. Was that all?

25 A. That's all I remember.

## Pannutti - Cross

- 1 Q. You know that I'm representing myself as my own  
2 attorney?
- 3 A. Yes, sir.
- 4 Q. Is that the reason you talked to me?
- 5 A. Pardon me?
- 6 Q. Is that the reason you talked to me?
- 7 A. No.
- 8 Q. You just --
- 9 A. I talked to you because you called me.
- 10 Q. All right. But we did talk, didn't we?  
11 You know that Mr. Sabatine had donated \$20,000 to  
12 Mr. Fergus?
- 13 A. That's what I -- that's what I heard, but I have no  
14 firsthand knowledge of it.
- 15 Q. Did Mr. Sabatine ever tell you that he bribed  
16 Mr. Fergus?
- 17 A. No.
- 18 Q. Was I at that meeting in Poland?
- 19 A. No, sir.
- 20 Q. Did you call me?
- 21 A. No, sir.
- 22 Q. Isn't it a fact that Mr. O'Nesti and Mr. Fergus were  
23 very good friends?
- 24 A. I don't know that, sir.
- 25 Q. Was it a fact that Mr. Sabatine and Mr. Fergus were

Pannutti - Cross

- 1 very good friends?
- 2 A. I would say so, yes.
- 3 Q. When did you say you started, what years for  
4 Hardrives?
- 5 A. 1983 to 2000.
- 6 Q. Did you ever send any asphalt out to me?
- 7 A. To your driveway, yes.
- 8 Q. And when was that?
- 9 A. I don't remember the year.
- 10 Q. Would it be the early '80s?
- 11 A. I'm not sure, sir. I -- I said yes, I'm not sure.
- 12 Q. Could you have contested that bid with ODOT?
- 13 A. The Mahoning County bid?
- 14 Q. Yeah.
- 15 A. No. It was a county bid. It wasn't an ODOT bid.
- 16 Q. And when you checked with the commissioners, did the  
17 commissioners have some say?
- 18 A. I never heard anything from them.
- 19 Q. Did you report that to Mr. Sabatine?
- 20 A. Yes, I did.
- 21 Q. And what, if anything, did Mr. Sabatine instruct you  
22 to do?
- 23 A. He didn't instruct me to do anything at that point.
- 24 Q. Well, didn't you think it was funny Mr. Fergus wasn't  
25 talking to you, but Chuck O'Nesti was talking to you?

Dowe - Direct/Smith

1 A. Yeah, I did.

2 Q. Did you explain that to Mr. Sabatine?

3 A. Well, I told Jimmy that it was obvious that the  
4 Buccis were getting the job no matter what.

5 Q. Did the commissioners contest the fact that they were  
6 the low bidders?

7 A. No, nobody contested anything. I'm the only one that  
8 was trying to contest the thing but didn't work.

9 MR. TRAFICANT: No further questions.

10 THE COURT: Thank you.

11 MR. KALL: No redirect, your Honor.

12 THE COURT: Thank you. You may step down,  
13 sir.

14 THE WITNESS: Thank you.

15 MR. SMITH: Call Rudy Dowe, your Honor.

16 RUFUS DOWE

17 of lawful age, a witness called by the Government,

18 being first duly sworn, was examined

19 and testified as follows:

20 DIRECT EXAMINATION OF RUFUS DOWE

21 BY MR. SMITH:

22 Q. Sir, would you please state your full name, and spell  
23 your last name for the Court Reporter?

24 A. My name is Rufus Shirley Dowe, Junior, also known as  
25 Rudy.

Dowe - Direct/Smith

1 Q. And spell your last name?

2 A. Last name spelled D-O-W-E.

3 Q. And in what city do you reside, sir?

4 A. I live in North Olmsted, Ohio.

5 Q. Where do you currently work?

6 A. I work with Norfolk and Southern office is located in  
7 Westlake, Ohio.

8 Q. And in what business is Norfolk and Southern engaged?

9 A. We're a rail transportation company.

10 THE COURT: Can everyone hear in the back?

11 MR. SMITH: If you'll pull that microphone  
12 right out of the socket, and hold it right up to your  
13 mouth, if you would. Thank you, your Honor.

14 THE COURT: Thank you.

15 Q. It's a railroad company?

16 A. Railroad transportation company, that's correct.

17 Q. How long have you worked for Norfolk and Southern?

18 A. 27 years in Jul6, 2002.

19 Q. What is your title?

20 A. I am a national account manager.

21 Q. And what does a national account manager do?

22 A. Basically, we're the liaison between the company and  
23 customers in trying to get freight to come via the railroad  
24 as opposed to other modes of transportation like truck,  
25 barge, ship, vessels, or airplane.

Dowe - Direct/Smith

1 Q. And with respect to a particular customer, what  
2 geographic region do you cover for a particular customer?

3 A. Essentially, as a national account manager, I have  
4 account responsibilities. I handle national accounts such  
5 as PEG, Owens Coin, Owens, Illinois, Guardian Industries.  
6 My geographic territory basically is limited to Northern  
7 Ohio, to Western Michigan, and also east to the middle part  
8 of Pennsylvania, east -- western part of Pennsylvania, but  
9 because of my national accountant responsibilities, I go  
10 wherever there may be trouble.

11 Q. Okay.

12 Do you know a man named James Sabatine?

13 A. Yes.

14 Q. And have you ever encountered Mr. Sabatine in your  
15 professional capacity?

16 A. Yes, I have.

17 Q. What was the subject matter of that contact that you  
18 had with Mr. Sabatine in your professional capacity?

19 A. Back in -- when I first met Mr. Sabatine, it was back  
20 in 1998, August of 1998, in which we were at that time,  
21 Norfolk Southern was in the midst of acquiring Conrail.  
22 That acquisition that we were going to get from Conrail  
23 would take us into the Youngstown, Ohio, area. In that  
24 capacity, we had received a phone call from Congressman  
25 Traficant's office, wanting him to meet with one of his

Dowe - Direct/Smith

1 constituents who happened to be Mr. Sabatine, to see about  
2 getting stone from the Wesson, Ohio, stone quarries into  
3 the Youngstown market area for an asphalt plant that was  
4 going to be built there.

5 Q. All right.

6 Now, this call that was received from the  
7 Congressman's office, did you say?

8 A. That's correct.

9 Q. When did that occur in 1998?

10 A. That happened in -- that was August -- we received a  
11 phone call in August the 12th -- I believe it was in the  
12 A.M. of that morning.

13 Q. Okay.

14 A. Of August 12th, 1998.

15 Q. And to whom did you speak?

16 A. Well, at the time, it was a message that the staff  
17 person had received that his office, Congressman  
18 Traficant's office had called, and that as soon as either I  
19 -- we returned a call or Joe Juliano who was the head of  
20 group sales manager at the office, whichever one of us got  
21 back to the office first, to return that phone call to his  
22 office.

23 Since I got back first, I had the honor of calling  
24 Congressman Traficant's office to find out what was the  
25 request, what the need was.

Dowe - Direct/Smith

1 Q. When you called -- when you returned the call to  
2 Congressman Traficant's office, with whom did you speak?

3 A. I initially spoke with the -- with his staff person  
4 secretary, asking to speak to Congressman Traficant, and  
5 then she put me into his office, and I talked directly with  
6 him.

7 Q. And during that conversation, what did Mr. -- the  
8 Congressman Traficant say to you?

9 A. Essentially, he indicated that he had a constituent  
10 that was going to be -- that had an asphalt plant, was  
11 looking to receive stone in the area, and he wanted to meet  
12 with -- wanted the railroad to meet with him and to see  
13 what we could do to bring stone into the Youngstown area.

14 Q. Did you agree to such a meeting?

15 A. Yes.

16 Q. When did that meeting happen in relation to the phone  
17 call?

18 A. The next morning, August 13th, approximately -- a few  
19 minutes after 9:00 A.M.

20 Q. Now, if you look at Exhibit 4-1 on the counter before  
21 you, do you recognize Exhibit 4-1?

22 A. Yes, I do.

23 Q. What is Exhibit 4-1?

24 A. It's two pages out of my appointment book.

25 Q. All right. And what dates does that two pages of

Dowe - Direct/Smith

1 appointment book cover?

2 A. Basically covers the month of August.

3 Q. Of what year?

4 A. Of 1998.

5 Q. And if you'd look at -- this meeting then occurred on  
6 what day?

7 A. On August 13.

8 Q. Is there any notation on August the 13th that is  
9 pertinent to this meeting that you're referring to?

10 A. Well, it doesn't refer to the meeting that took place  
11 at Congressman Traficant's office. There is a notation  
12 there that we had an 11:30 meeting with Marty Schlessner  
13 with White Stone Supply.

14 I basically recall that in our discussion of that  
15 morning it was fortuitous that we were going -- that we met  
16 that morning because White Stone Supply was considering  
17 building a stone distribution terminal in that Youngstown  
18 market area; leave that meeting to go directly to the  
19 meeting with White Stone Supply in order to discuss the  
20 issue at hand.

21 Q. In what town was the meeting with White Stone Supply  
22 to occur?

23 A. The meeting with White Stone Supply occurred in  
24 Twinsburg, Ohio.

25 Q. How far was that from where you met --

Dowe - Direct/Smith

1 MR. TRAFICANT: Where was that meeting? What  
2 city?

3 Q. How far was the meeting -- how far away was Twinsburg  
4 from the meeting that you had with the Congressman?

5 A. It's approximately an hour.

6 Q. All right.

7 When did you meet with the Congressman, at what time  
8 of day?

9 A. It was about 9:00 A.M.

10 Q. All right. And who all was at that meeting at 9:00  
11 A.M.?

12 A. The 9:00 A.M. meeting was Mr. Sabatine, Congressman  
13 Traficant, Joe Juliano, and myself.

14 Q. And Mr. Juliano is who again?

15 A. At that time, he's the group sales manager, person I  
16 report to.

17 Q. Is he higher or lower in the food chain than you?

18 A. He's the next level up.

19 Q. And where did this meeting occur?

20 A. It occurred at the Perkins Restaurant. I believe  
21 it's in Austintown.

22 Q. And during that meeting at the Perkins Restaurant in  
23 Austintown, what did Congressman Traficant say during that  
24 meeting?

25 A. During the meeting, basically it was a general

Dowe - Direct/Smith

1 introduction in which we had small talk that takes place  
2 normally at any breakfast meeting.

3 And at the time, he wanted -- basically just stated  
4 that he had a constituent and at the time introduced Jim  
5 Sabatine to us and indicated that his constituent was  
6 looking at building or moving his asphalt plant into the  
7 Youngstown, Ohio, area and was looking for another source  
8 to bring in stone to -- as a raw material for the  
9 production of asphalt.

10 Q. Was there any discussion of a per ton price of as --  
11 of stone at this meeting?

12 A. There was a general discussion on stone. Basically,  
13 the question was asked by Congressman Traficant -- not  
14 question I shouldn't say -- but more or less a statement  
15 that basically that what he thought it would take in order  
16 for the stone to -- should come in by rail into the  
17 Youngstown market.

18 Q. Was any specific price mentioned?

19 A. Yes, there was.

20 Q. What was the price?

21 A. The price was essentially less than \$3 a ton.

22 Q. And that was proposed by who?

23 A. And at that time, he made the indication that we  
24 should -- that should be the price of the stone by  
25 Congressman Traficant, that we should basically bring that

Dowe - Direct/Smith

1 in for that price for his -- for Mr. Sabatine.

2 Q. Now, for Norfolk and Southern to get involved in this  
3 particular type of work, what types of services and  
4 equipment would you have had to have provided in order to  
5 facilitate this business transaction if it occurred?

6 A. For the business, there's basically what we would  
7 provide is the rail transportation service. We provide the  
8 trains obviously and, if necessary, the cars to move the  
9 product from point A to point B.

10 The -- there is a second consideration. Sometimes  
11 customers have their own equipment, which doesn't require  
12 the use of railroad owned equipment, but in this case,  
13 we're talking about open top hoppers, which basically is  
14 a -- it's like a wagon with no -- no cover on top. It's  
15 just open, and you can dump in your stone into the facility  
16 and unload it from the bottom.

17 Q. Was the price proposed by the Congressman adequate  
18 for Norfolk and Southern to accept the business?

19 A. Not at that price, no. We had indicated at that time  
20 if that was the price, that that needed to make this deal  
21 go, that we might as well just end the meeting now because  
22 we weren't handling the stone into the Cleveland market  
23 from the Western Ohio quarries at that price. We would end  
24 up losing money, and nobody is in the business to lose  
25 money.

Dowe - Cross

1 Q. After the Perkins Restaurant meeting, did you have  
2 any additional face-to-face meetings with Mr. Sabatine?

3 A. I did not.

4 Q. Did anyone from your company to your knowledge?

5 A. Yes.

6 Q. Was Norfolk and Southern Railroad Company ever able  
7 to reach a satisfactory agreement with Mr. Sabatine about  
8 this business?

9 A. No, we did not.

10 Q. And was -- what was the main stumbling block to  
11 reaching an agreement?

12 A. Main stumbling block was the price transporting the  
13 stone from the west quarries into Youngstown.

14 MR. SMITH: May I have a moment, your Honor?

15 No further questions, your Honor.

16 THE COURT: Okay. Congressman?

17 CROSS-EXAMINATION OF RUFUS DOWE

18 BY MR. TRAFICANT:

19 Q. How are you doing, Rufus?

20 A. I am doing fine.

21 Q. Was I loud and vulgar that day?

22 A. Pardon me?

23 Q. Was I loud and vulgar?

24 A. No.

25 Q. That morning?

Dowe - Cross

- 1 A. No.
- 2 Q. Did you eat a breakfast?
- 3 A. We had -- we had something to eat, yes. It wasn't  
4 called a breakfast but more like donuts at that time.
- 5 Q. Yeah, light?
- 6 A. Light, orange juice and pastries.
- 7 Q. So your company basically -- Congress broke up  
8 Conrail, didn't they, at some point?
- 9 A. The Congress agreed to allow Conrail to be broken up  
10 and sold to -- in essence yes.
- 11 Q. Norfolk and Southern was one of the successful  
12 bidders of at least some of the access routes that Conrail  
13 had in their possession; is that correct?
- 14 A. That's correct.
- 15 Q. How much were you providing -- what was the cost of  
16 stone you were providing to the Cleveland area?
- 17 A. The stone that was moving into the Cleveland area was  
18 approximately \$3.75 a ton.
- 19 Q. \$3.75 a ton. And was that discussed?
- 20 A. Not that -- not the exact price of stone coming into  
21 Cleveland. What was discussed was the price that you  
22 thought was required in order to bring stone into the  
23 Youngstown market area.
- 24 Q. Was it discussed that this was going to be a new  
25 start?

Dowe - Cross

1 A. Could you repeat that question, please?

2 Q. Was this company basically going to move and be a new  
3 startup, like a new startup company doing business with?

4 A. I don't recall that being discussed at that  
5 particular meeting. I know that later on we discovered  
6 that it was an existing asphalt company that was located at  
7 Middle Ridge that would be moving to the Youngstown market  
8 area.

9 Q. So it would be moving one plant into another area in  
10 the Youngstown area?

11 A. That's correct.

12 Q. Now, are you familiar with the Youngstown area's  
13 location geographically between New York and Chicago,  
14 Pittsburgh and Cleveland?

15 A. On a general basis, yes.

16 Q. And what would that general basis be?

17 A. As far as the supply -- stone suppliers that could --  
18 that could supply stone into the Youngstown market area?

19 Q. Yes.

20 A. Yes, I'm familiar with those areas. There is one  
21 eastern location in Annville, Pennsylvania, that could also  
22 supply stone for the Youngstown market area as well.

23 Q. But isn't it a fact that years ago when the steel  
24 mills operated there was more rail lines in Youngstown than  
25 there was in Chicago? Would you know that to be a fact?

Dowe - Cross

1 A. Because I was not part of that system at that time, I  
2 don't know.

3 Q. But at the time that you came to Youngstown, was much  
4 of it a rail line system?

5 A. It was very limited.

6 Q. So there would have to be investments made to have  
7 the stone get to the -- get to the end producer, would you  
8 say so?

9 A. A stone distribution center would have to be built,  
10 yes.

11 Q. What is the bottom line at Norfolk Southern considers  
12 when they set a price?

13 A. When we set a price, basically is what the market  
14 will bear.

15 Q. Well, in a free enterprise system, is that -- word  
16 called profit mean anything?

17 A. Of course.

18 Q. And at that meeting, you decided, am I correct, it  
19 was your testimony that \$3 a ton could not be profitable  
20 for Norfolk and Southern?

21 A. That is correct.

22 Q. Was it also discussed that for this new startup, that  
23 \$3.75 a ton would be expensive for the investment being  
24 made?

25 A. At that particular meeting, that didn't -- at our

Dowe - Cross

1 meeting on August 13th, that was not -- it did not -- we  
2 did not arrive at that conclusion. Basically, at later  
3 meetings I had with Mr. Sabatine, we found out what he  
4 needed in order to be competitive in his market area, and  
5 we determined at that time that what he needed was  
6 something that Norfolk Southern could not give him.

7 Q. So Mr. Sabatine was in a competitive environment  
8 where \$3.75 a ton price for the stone would have made him  
9 noncompetitive, is that your testimony?

10 A. That is true.

11 Q. And you said Mr. Sabatine then engaged in further  
12 conversation with the company; is that correct?

13 A. Yes.

14 Q. You know if I had any further conversations with the  
15 company?

16 A. Not that I'm aware of, other than the -- of the  
17 meeting that you had the following day with Joe Juliano,  
18 the group sales manager.

19 Q. Now, I'm sure Mr. Juliano is going to be coming out  
20 here. I won't ask you to speak for him, but the best of  
21 your knowledge, did I meet with the sales manager? Was Joe  
22 Juliano the salesman, the sales --

23 A. He was the group sales manager that you met in  
24 August -- I believe it was August 14th.

25 Q. Who ultimately made the decision on new markets?

Dowe - Cross

1 A. The ultimate decision is -- basically a market  
2 decision is made in our offices located in Roanoke,  
3 Virginia.

4 Q. Who would recommend to the high bosses in Roanoke  
5 what new projects they would undertake?

6 A. That would come from -- in this particular case, it  
7 comes from the field sales offices, whereby we investigate,  
8 look at opportunities, new business opportunities, which  
9 this would have been one, in which we can realistically  
10 pursue to add new traffic, additional traffic to the  
11 corporation.

12 Q. Would you agree at one time that rail traffic was  
13 very profitable years ago in America?

14 A. Not only years ago but still is today.

15 Q. And it still is?

16 A. Yes.

17 Q. But would this require additional investment by  
18 Norfolk Southern to bring that stone to the location that  
19 Mr. Sabatine would have had?

20 A. The initial investment that was required by Norfolk  
21 Southern for the stone distribution terminal, if he had  
22 decided to build one, would have been the lead in track for  
23 that -- that goes from our yard into basically what we call  
24 a clear point. Clear point is that point on the siding  
25 whereby our trains or our engines can safely navigate our

Dowe - Cross

1 tracks without hitting a track -- a car that's on the  
2 siding.

3 So we would -- we would invest from the -- our main  
4 line to a point on the siding whereby we are clear of any  
5 obstacles that could create problems for the movement of  
6 our trains and then from that clear point to -- into his  
7 facility. That investment is borne by the asphalt company  
8 or in this case Mr. Sabatine.

9 Q. So you, the company, would bear some expense, right?

10 A. That's correct.

11 Q. And the company would have to bear some expense?

12 A. That's correct.

13 Q. Is that correct?

14 A. Um-hum.

15 Q. So that the product can at some point be given from  
16 the train to the manufacturer to transport it to his plant?

17 A. Correct.

18 Q. Okay.

19 Is it a fact that at that time Norfolk and Southern  
20 was looking for new market opportunities?

21 A. We're always looking for new market opportunities,  
22 yes.

23 Q. As we sit -- as we are interviewing here today,  
24 you're looking for marketing?

25 A. That is correct.

Dowe - Cross

1 Q. Okay.

2 You know if in the final analysis, that plant was  
3 ever built?

4 A. We know that the plant was built, yes.

5 Q. Did you service that plant?

6 A. No, it did not acquire any rail siding into the  
7 facility.

8 Q. Do you know how they -- if you do know, how they got  
9 their material then?

10 A. I -- I can make an assumption. There are --

11 MR. SMITH: Object to any assumption.

12 THE COURT: We can't do it with assumptions

13 BY MR. TRAFICANT:

14 Q. What are the ways that producers who get stone  
15 receive it?

16 A. There are two stone quarries in the Youngstown area.  
17 One's call Pine Creek, and the other's called Fairfield  
18 Coal.

19 Q. And how do they receive their stone?

20 A. Truck.

21 Q. So if you're not near a line, there's expenses  
22 incurred, right?

23 A. In the case of the two local quarries that are in the  
24 Youngstown area, Pine Creek and Fairfield Coal, they're  
25 only ten miles from the asphalt plant that was eventually

Dowe - Cross

1 built in Youngstown. So their expenses would be  
2 considerably less than railing the material in from the  
3 Western Ohio areas.

4 Q. By rail?

5 A. By rail.

6 Q. But if it was \$3 a ton, they would much rather have  
7 had it by train, would they not?

8 A. Yes.

9 Q. Why?

10 A. The efficiencies, the ability to unload at their pace  
11 as opposed to having to deal with trucks coming in and out,  
12 the frequency of trucks coming into the facility, out of  
13 the facility, whereby a train could just drop off the cars  
14 usually in 75-block units and just drop it off and could  
15 unload the stone at his leisure.

16 Q. Be a lot less complicated, wouldn't it?

17 A. It's a simple process.

18 Q. Did I go out to bat for Mr. Sabatine, would you say?

19 A. In regard to -- as far as --

20 Q. Trying to help him when I met with you.

21 A. The way I saw it, at that particular meeting, is that  
22 you were introducing your constituent to the railroads, the  
23 new players in town, and allowing him just basically using  
24 that occasion to introduce your constituent to the  
25 railroad, Norfolk Southern Corporation.

Dowe - Cross

1 Q. And do you know who met at the following meetings?

2 A. I don't know all the players that met in the  
3 following meeting. I just know some of the people that  
4 met.

5 Q. Okay. Did you at that time have any knowledge of the  
6 economic status of the City of Youngstown?

7 A. Just a general knowledge that Youngstown was a  
8 depressed market area due to the fact that most of the  
9 steel mills had closed in Youngstown and was looking for  
10 new businesses to come in and revive the city.

11 Q. Were the rail lines that you owned those lines that  
12 used to serve the third largest steel producing region in  
13 the world? Did you know that?

14 A. No, I didn't know that, did not know that.

15 Q. But did you own a line that used to serve steel  
16 mills?

17 A. We owned lines that served steel mills, yes, but not  
18 in Youngstown, Ohio. Norfolk Southern Corporation at that  
19 time didn't gain access into the market area until 1999  
20 when we required that portion of Conrail.

21 Q. And in 1999 were any steel mills in Youngstown?

22 A. None of that other than I believe WCI is there and  
23 the division of LTV.

24 Q. And do you know if they're in bankruptcy?

25 A. I don't call on those accounts, and I really don't

Dowe - Cross

1 know.

2 Q. Was the plant location we're talking about located  
3 within the city limits of Youngstown, Ohio, itself?

4 A. I don't know the boundaries. I do know the location  
5 of the plant. I do know where it's located in relationship  
6 to our yard, but I don't know whether it's in the City  
7 limits of Youngstown itself. I'm not aware of that.

8 Q. Did it go through the suburbs?

9 A. The -- I say that question again, please?

10 Q. Was the site that was being discussed located in the  
11 suburbs?

12 A. Again, I don't know whether it's a suburb or not. I  
13 do know that the location that we were talking about was  
14 located north of our Hazelton yard. I believe the location  
15 was Center Street right across the river, Mahoning River.  
16 How it relates to the boundaries of the city and suburbs, I  
17 don't know.

18 Q. To the best of your knowledge, after reviewing that  
19 site, what did it appear to be used at, as before, that  
20 property?

21 A. That property beforehand used to be a former rail  
22 yard that was located there. But the tracks had been taken  
23 out. I don't know the owners of that particular rail yard,  
24 but it was a former rail yard. That's what -- it was a  
25 very, very -- how can I say this? It was a very nice piece



Delucia - Direct/Smith

1 of property for what he wanted to do.

2 Q. Did I ever call you back?

3 A. No.

4 Q. Did I hug you?

5 A. No.

6 MR. TRAFICANT: No further questions at this  
7 time.

8 MR. SMITH: No questions, your Honor.

9 THE COURT: Thank you, sir. You are excused.

10 MR. SMITH: Government calls Angelo Delucia.

11 ANGELO DELUCIA

12 of lawful age, a witness called by the Government,  
13 being first duly sworn, was examined

14 and testified as follows:

15 DIRECT EXAMINATION OF ANGELO DELUCIA

16 BY MR. SMITH:

17 Q. Sir, would you please state your full name, and spell  
18 your last name for the Court Reporter?

19 A. My name is Angelo Delucia. My last name is  
20 D-E-L-U-C-I-A.

21 Q. And, sir, in what city do you reside?

22 A. Youngstown, Boardman.

23 Q. And what is your occupation, sir?

24 A. Say it again?

25 Q. What do you do for a living, sir?

Delucia - Direct/Smith

- 1 A. Construction work.
- 2 Q. What kind of construction work?
- 3 A. Asphalt.
- 4 Q. How long have you been doing that kind of work?
- 5 A. I was 12 years old. Now I'm 57.
- 6 Q. Okay. Very good.
- 7 Do you know a person by the name of James Sabatine?
- 8 A. Yes.
- 9 Q. And how long have you known James Sabatine?
- 10 A. I can say I know him maybe 20 years.
- 11 Q. What does Mr. Sabatine do for a living?
- 12 A. Well, before, you know, I don't know, he was a
- 13 construction foreman, I think, but I'm not sure really.
- 14 Then he was doing Hardrives, you know, asphalt.
- 15 Q. That's Hardrives Paving?
- 16 A. Yes.
- 17 Q. How did you first meet James Sabatine?
- 18 A. It was at that time -- really I was real close to
- 19 him. It was, you know, it was in the same neighborhood,
- 20 plus his son went to school with my son, too.
- 21 Q. Did you ever go with James Sabatine to a farm located
- 22 on Route 165 in Greenford?
- 23 A. Yes.
- 24 Q. About how many years ago was that?
- 25 A. Well, I tell you the truth, if you're asking me the

Delucia - Direct/Smith

1 years, the time and the day, you know, I don't know. I  
2 don't remember that because I was with so many jobs, you  
3 know.

4 Q. All right. Are we talking more or less than ten  
5 years ago?

6 A. Oh, it's -- I think it's got to be about three years,  
7 something like that, but I'm not sure really, you know.

8 Q. What time of year was it, spring, summer, fall,  
9 winter?

10 A. It had to be after the -- to be around, 5:00, 6:00,  
11 is something like that.

12 Q. What time of year, fall, spring, summer, winter?

13 A. You know, I don't want to say because really I don't  
14 remember. I know I went, but I can't tell you exactly if  
15 it was the fall, you know, or the summer, you know.

16 Q. Okay. When you and Mr. Sabatine got to this farm,  
17 who did you meet there?

18 A. Mr. Traficant, the Congressman.

19 Q. If you could sit forward so your voice goes into the  
20 microphone, please. All right.

21 And did you have any meeting or discussion with  
22 Congressman Traficant with Mr. Sabatine on that occasion?

23 A. Well, the reason I went over there, he take me over  
24 there. You know, he wants to fix this barn over here.

25 Q. Are you looking at Government's Exhibit 4-3?

Delucia - Direct/Smith

1 A. That's this, yes, I think that's -- that's what it is  
2 anyhow, yeah, it was this barn.

3 Q. All right. And what -- what is -- is that a picture  
4 you're holding in your hand, sir?

5 A. Yes.

6 Q. What is it a picture of?

7 A. Well, it's a barn. It fall down.

8 Q. And where was that barn located?

9 A. I think when you go here, you know, the driveway is  
10 on the right side, the right side. The house is by the  
11 driveway I think right behind the house on the left-hand  
12 side, yeah.

13 Q. And is that picture an accurate picture of this barn  
14 structure that you looked at that day?

15 A. I think, I guess, that's -- it looks like the one I  
16 work anyhow.

17 MR. SMITH: Your Honor, can I put this on the  
18 machine?

19 THE COURT: Sure.

20 Q. What, if anything, did Congressman Traficant ask you  
21 to do about this barn structure?

22 A. Well, he asked me if I can fix, and I said, you know,  
23 like I said, I don't mean to be, you know -- I said, well,  
24 you know what, I say, you know, I don't even go close to  
25 it. That thing is ready to fall down. All you can do is

Delucia - Direct/Smith

1 close down, burn down, and call the fireman, burn it down,  
2 and we'll build a new one.

3 Q. So you --

4 A. I suggested he build a new one.

5 Q. All right.

6 At the end of your answer there, did you suggest to  
7 Congressman Traficant that he build a new structure rather  
8 than try to fix this?

9 A. Exactly, yes.

10 Q. And what was Congressman Traficant's response when  
11 you suggested that he build a new structure?

12 A. Well, first he say, you know, really I don't want to  
13 spend the money. He says, you know, he said I don't want  
14 to spend the money. And I said, well, I said that's -- you  
15 know that thing, there is no way you can fix, that's it.

16 Q. Where was Mr. Sabatine when you were having this  
17 conversation at the time?

18 A. He was there, too.

19 Q. He was right there?

20 A. Yeah.

21 Q. Okay.

22 After this trip out to the farm to look at this  
23 structure, did you ever go out to that farm again?

24 A. No. I was supposed to give him a price. I was  
25 supposed to give him a price, but at that time, I was busy,

## Delucia - Cross

1       you know. I really escaped room this guy. I mean, I  
2       apologize. I never gave him a price anyhow because I was  
3       supposed to give him a price, you know. I never did,  
4       and --

5       Q.     Did you ever end up doing any work out at that farm?

6       A.     No, no.

7       Q.     Okay.

8                       MR. SMITH: No further questions, your Honor.

9                       THE COURT: Thank you.

10                      CROSS-EXAMINATION OF ANGELO DELUCIA

11       BY MR. TRAFICANT:

12       Q.     How are you doing, Angelo?

13       A.     Pretty good, Mr. Traficant.

14       Q.     Not all of my barn is all that -- not all of my farm  
15       is all that fancy. Is that what you're saying?

16       A.     I didn't say that. I was afraid to even go close.

17                      (Laughter.)

18       Q.     Would you know if that barn is still standing right  
19       now as we speak?

20       A.     I don't know. I don't even know.

21       Q.     Would you be surprised if it was?

22       A.     Well, I guess so. If you open the door, you go close  
23       it, it would still be there. I mean, you know.

24       Q.     You didn't even want to walk in it, did you?

25       A.     I don't even want to go close. I was scared to even

Delucia - Cross

1 go close.

2 Q. Did I say anything to you or in -- or make any  
3 statement to you to say, look, if you can help me save this  
4 barn from killing somebody, I'll help your grandmother with  
5 social security?

6 A. No, no. You just ask me for price, that's it.

7 Q. Was it a friendly relationship?

8 A. Pardon me?

9 Q. Was it sort of like a friendly dialogue, friendly  
10 interchange?

11 A. No. I know you just because you're a congressman,  
12 and you show up a lot of those Italian parties. You're  
13 Italian like me, and that's it, so that's the only way I  
14 know you.

15 Q. My father's Italian. You don't know the other side?

16 A. Well, you know.

17 Q. But you wanted to help me, didn't you?

18 A. Well, I'm a guy, let's put it this way. If I go and  
19 say a job, if I can help him, you know, do something, but I  
20 still didn't get paid anyhow. If I ended up with a better  
21 price, that's why I go to -- everybody I give him a better  
22 price, sometimes, you know, depends the way I feel. But it  
23 doesn't mean I do for nothing.

24 Q. But did I ask you for a price?

25 A. No, you don't ask me.

## Delucia - Cross

- 1 Q. What did I say?
- 2 A. You just asked me for a price. That's it, that's it.
- 3 Q. That's what I said. I asked you for a price?
- 4 A. That's all -- you got to know if I build a new one,  
5 you have to know what that cost, too.
- 6 Q. But when I asked you for the price to fix the old  
7 one, didn't I ask you for -- did I ask you for a price to  
8 fix the old one?
- 9 A. No.
- 10 Q. Why?
- 11 A. No. You ask me to fix. I said there's no way you  
12 can fix that thing. I don't even go close I said. I don't  
13 even want to go close to that thing. If you build a new  
14 one, I give you a price. That's what I said.
- 15 Q. And what, if anything, did I say?
- 16 A. That's it. And I never give you a price either. I  
17 apologize for that because I should have given you a price.  
18 I never did.
- 19 Q. But was it your understanding that I wanted a price?
- 20 A. Yes.
- 21 Q. And did you do that kind of work?
- 22 A. That's the kind of work -- that's the way I make a  
23 living, construction.
- 24 Q. Now, you said the picture looked better than it  
25 really is, than it was?

## Delucia - Cross

- 1 A. It looks the same to me, the one I see anyhow.
- 2 Q. Did you walk in it?
- 3 A. No. I was scared to even go close. It was really
- 4 bad shape. Let's put it this way.
- 5 Q. Are people back home afraid of me, Angelo?
- 6 A. Afraid of me?
- 7 Q. No, afraid of me.
- 8 A. I don't think so. Why they have to be afraid of you
- 9 anyhow? I wasn't afraid of you. I ain't afraid of nobody.
- 10 Q. I wasn't asking about anybody; I asked about me.
- 11 A. No. I didn't know. Why would they be afraid of you?
- 12 Q. When you came, did I give you a big hug?
- 13 A. Say that again, please.
- 14 Q. Did I give you a hug?
- 15 A. Oh, you can give me a hug any time.
- 16 (Laughter.)
- 17 Q. I didn't hear you.
- 18 A. You can give me a hug any time.
- 19 Q. I can give you a hug?
- 20 A. Well, sure.
- 21 Q. But did I give you a hug that day when you came to
- 22 the farm?
- 23 A. No, we just shake hands, you know, that's it. That's
- 24 it, you know.
- 25 Q. Did I pat you down?

Delucia - Cross

1 A. No. That's all we did. Every time I go see a job I  
2 shake hands anyhow, you know --

3 Q. When you left?

4 A. Yes.

5 Q. And when we departed, were we sort of like on -- not  
6 after we met -- sort of like on friendly terms, would you  
7 say?

8 A. I just -- you know, it's like I see a job. Like I  
9 go, that's usual for me, everyday somebody call. Somebody  
10 wants to build a house. Somebody wants to do something. I  
11 go see a job, that's it.

12 Q. But isn't it a fact, Angelo, I expected you to call  
13 me and give me a price?

14 A. Yes, yes, you expected me, and I never did. And I  
15 apologize for that.

16 Q. Your apology is accepted.

17 MR. TRAFICANT: No further questions.

18 MR. SMITH: No questions, your Honor.

19 THE COURT: You may step down. You can go  
20 back. Thank you.

21 THE WITNESS: Thank you.

22 THE WITNESS: Sorry my broken English anyhow.  
23 I have my grandson. He said grandpa, why you talking  
24 funny?

25 (Laughter.)

Sabatine - Direct/Morford

1 MR. MORFORD: Our next witness is actually  
2 going to be longer and would go through the rest of the  
3 afternoon. I don't know if you want to get started in ten  
4 minutes, then take a break?

5 THE COURT: No. We'll let the jury have a  
6 nice break before we take this other witness. So we'll  
7 take a half hour break. Thank you.

8 (Thereupon, a recess was taken.)

9 JAMES SABATINE,  
10 of lawful age, a witness called by the GOVERNMENT,  
11 being first duly sworn, was examined  
12 and testified as follows:

13 DIRECT EXAMINATION OF JAMES SABATINE

14 BY MR. MORFORD:

15 Q. Could you please state your full name, and spell your  
16 last name?

17 A. James Robert Sabatine, S-A-B-A-T-I-N-E.

18 Q. Mr. Sabatine, I'm going to ask you to try to talk  
19 into the microphone, and if you need to, you can actually  
20 pull it out and hold it. And if at any point you need  
21 water, there's water up there, but we need you to project  
22 your voice in a big room. Okay?

23 A. Yes, sir.

24 Q. Mr. Sabatine, are you familiar with a company called  
25 Hardrives Paving?

Sabatine - Direct/Morford

1 A. Yes, I am.

2 Q. And can you tell the jury your relation to Hardrives  
3 Paving?

4 A. I was president of Hardrives since 1977.

5 Q. Were you also the owner of Hardrives?

6 A. Yes, I was.

7 Q. And during what years did Hardrives exist?

8 A. We incorporated in 1977, and we closed operations in  
9 the Year 2000.

10 MR. MORFORD: Can everyone hear okay?

11 THE JURY: Yes.

12 MR. TRAFICANT: I can't hear. I would like  
13 him to speak up. I can't hear him.

14 THE COURT: He's going speak up now,  
15 Congressman. He's going to use the microphone.

16 BY MR. MORFORD:

17 Q. Now, can you tell us where your company Hardrives  
18 Paving was located?

19 A. When we originally started, I worked out of my  
20 apartment. I had an apartment above Plaza Mahoning Avenue  
21 across from the Upstairs Lounge.

22 Q. That's in what city?

23 A. Austintown, Ohio.

24 Q. Where is that in relation to Youngstown, Ohio?

25 A. It's approximately four miles from downtown

Sabatine - Direct/Morford

1 Youngstown, located on Route 18.

2 Q. Did there come a time you moved your company to  
3 another location?

4 A. In approximately 1979 to 1980, we moved to a little  
5 office over on South Avenue, which we rented in Youngstown.

6 Q. And then did there come a time you moved again?

7 A. Approximately a year or two later moved to a little  
8 office on Poland Avenue in the City of Youngstown.

9 Q. Did you finally end up at a place called Middle  
10 Ridge?

11 A. Yes, moved to Middle Ridge in 1993.

12 Q. Where is that in Youngstown?

13 A. That's approximately ten miles from downtown  
14 Youngstown located right in the city.

15 Q. Can you describe for the jury the nature of the work  
16 that your company Hardrives Paving did?

17 A. When we first got started, we started out doing  
18 driveways, small parking lots with asphalt, a little bit of  
19 grading, excavation, prepared the driveways, and then we  
20 got into doing small parking lots, and every year we got  
21 just a little bit bigger until we were doing large parking  
22 lots.

23 Q. Did there come a time you started road work?

24 A. In 1983, I purchased a small asphalt plant  
25 approximately 100 to 125 ton plant and started doing city

Sabatine - Direct/Morford

1 work, county work, and state work.

2 Q. What was the biggest job you ever had?

3 A. The biggest job we ever did was the Youngstown  
4 Airport air base.

5 Q. And were you the main contractor or a subcontractor  
6 out there?

7 A. We were the prime, main contractor.

8 Q. And when was that?

9 A. We started that project in 1998.

10 Q. And how large a project was that for your company?

11 A. It was two phases: We bid about the same time. They  
12 awarded a million plus to us the first year, and the second  
13 year I believe was around six million plus, so the total  
14 was seven to \$8 million dollars.

15 Q. How big was that contract compared to the other work  
16 you had done prior to that contract?

17 A. At least three times larger.

18 Q. And how important was that airport contract to your  
19 company?

20 A. It was a very important job because of its size, and  
21 because we bid, we got at least a piece out of it. So we  
22 wanted to perform the job.

23 Q. Were you familiar with a couple other paving  
24 contractors by the name of Tony and Robert Bucci?

25 A. Yes, I was.

Sabatine - Direct/Morford

1 Q. And can you describe for the jury the relationship  
2 between you and the Buccis during the years that you were  
3 running Hardrives Paving and they were running their own  
4 paving contractors?

5 A. Well, when you -- when you bid a project, normally,  
6 you fill the paperwork out, and you deliver it to a city or  
7 a township, wherever you're going to be bidding the work,  
8 and while you're there, usually you sit down with the bid,  
9 and all the other contractors that are bidding the job are  
10 there.

11 So if we bid, say, three or four jobs a week, I would  
12 run into those guys three or four times a week, plus I  
13 would see them once in a while on the streets, and so I was  
14 around them quite a bit.

15 Q. Were they somebody you got along with or somebody you  
16 didn't get along with?

17 A. They -- they were in the asphalt plant business  
18 before I was, and when I got in it, they were very upset.  
19 And they did whatever they could to get us out of the  
20 business.

21 Q. Okay. But my question is, were they somebody you got  
22 along with or didn't get along with?

23 A. We were bitter enemies, bitter enemies.

24 Q. Now, what was the reputation of the Buccis brothers  
25 within the Youngstown business community during the 1980's

Sabatine - Direct/Morford

1 and 1990s?

2 A. They had a reputation for being real tough guys, and  
3 they had threatened a lot of people, and on certain  
4 projects, if they didn't get their way, they would do  
5 whatever they had to do to get their way, whether it be  
6 physically, screaming matches, and they always liked to  
7 overpower people. That was their reputation.

8 Q. And how well known was that reputation around town?

9 A. Everybody in the construction industry feared them,  
10 and everybody in the construction industry knew who they  
11 were and really didn't want anything to do with them.

12 Q. How would you describe the general nature of the  
13 paving construction industry in the Youngstown area during  
14 the 1980s and early 1990s in terms of corruption?

15 A. Very corrupt, very competitive. When I say very  
16 competitive, there would never be enough work and paving  
17 contractors. We would nose dive to get the job. There  
18 wasn't enough work to keep the people busy. It was very  
19 competitive.

20 Q. That's what you mean when you say very competitive.  
21 What do you mean when you say very corrupt?

22 A. Well, certain cities, certain counties, depended upon  
23 who was in office, if they didn't receive a package, you  
24 couldn't get paid. So if you were owed, say, an amount of  
25 \$500,000 for a project and you call and see where your

Sabatine - Direct/Morford

1 money is, even though the job was complete, everybody was  
2 satisfied, sometimes you still couldn't get paid.

3 So there was things you did to survive in that  
4 business on the scale I was in.

5 Q. Let me ask you this: Did you personally commit any  
6 crimes in the operation of your paving company, Hardrives?

7 A. Yes, I did.

8 Q. Did you ever file false wage and employee benefit  
9 statements with any federal, state, or local agencies  
10 during the time you ran Hardrives?

11 A. Yes, I did.

12 Q. Did you ever submit false change orders on contracts  
13 to make more money?

14 A. Yes, we did.

15 Q. Did you ever fail to comply with the specifications  
16 under contracts that your company was performing?

17 A. Yes, we did.

18 Q. Were there ever times that you used the less paving  
19 material than what was called for in a contract?

20 A. Yes, there were times.

21 Q. Were there ever times that you failed to pay the  
22 prevailing wage rate that you were required to pay under  
23 federal law?

24 A. Yes, there were times.

25 Q. Were there times where you paid bribes to inspectors

Sabatine - Direct/Morford

1 and other county officials so they wouldn't enforce these  
2 rules you were breaking?

3 A. Yes. There were times that was done.

4 Q. Did you ever file false income tax returns?

5 A. Yes, I did.

6 Q. Were there ever times that you received cash on a job  
7 and didn't report it on your income tax returns?

8 A. Yes.

9 Q. Now, did there come a time in the 1990s when you  
10 learned that you were being investigated by federal  
11 authorities?

12 A. Yes.

13 Q. And when was the first that you personally learned  
14 that you were under investigation?

15 A. I received the subpoena -- I got a phone call to come  
16 pick a subpoena up, and I had -- I had heard word on the  
17 streets, and you read the newspapers and see guys get  
18 arrested, and, you know, I knew it was only a matter of  
19 time before I would be getting a phone call or a visit.

20 Q. Did there come a time you started getting word back  
21 from people that were being interviewed as part of that  
22 investigation that you were the subject of an  
23 investigation?

24 A. Yes. I learned that I was going to be interviewed.

25 Q. Now, did there come a time when you were actually

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1 charged with federal offenses?

2 A. Yes.

3 Q. You recall approximately when that was?

4 A. I believe that was in August, September of the year  
5 2001.

6 Q. And were you actually charged with a violation of the  
7 RICO statute?

8 A. Yes. I was charged with the RICO.

9 Q. Were you charged with filing a false income tax  
10 return?

11 A. Yes. I was charged with filing a false income tax  
12 return.

13 Q. Describe, if you could, your understanding of the  
14 nature of the RICO charge that you were charged with. If  
15 you could describe that to the jury?

16 A. What I understand to be a RICO charge is when there  
17 is a group of people that show a pattern of corrupt  
18 activity.

19 Q. And what was the pattern in your case, as you  
20 understand it?

21 A. There was -- it was myself and two other individuals  
22 that worked for us that did illegal things.

23 Q. What were some of the specific things that you were  
24 charged with in that RICO count as you recall?

25 A. That we were charged -- I was charged with bribing a

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1 county engineer.

2 Q. Who was that?

3 A. That was William Fergus, Mahoning County.

4 Q. Were you charged with bribing anyone else?

5 A. Bribing Congressman Traficant.

6 Q. Were you charged with bribing anyone else?

7 A. I was charged with bribing Jim Lewchinski on several  
8 occasions.

9 Q. His position?

10 A. He was a Mahoning County inspector that worked  
11 underneath Bill Fergus, and he was the -- his father-in-law  
12 was Tom O'Nesti whose brother was Chuck O'Nesti.

13 Q. Now, were you charged with any -- was there any kind  
14 of fraud scheme included in the RICO charge?

15 A. Yes.

16 Q. And could you describe that for the jury?

17 A. The fraud was -- we were involved with a minority  
18 contractor, and a minority contractor is supposed to do the  
19 work with their own forces, and what we did is we created a  
20 pass, which was, we were giving her our crews to do the  
21 work, and we were doing the paperwork like she was doing  
22 the work, and that wasn't the case. We were actually doing  
23 the work, and that's what the pass crime came in place.

24 Q. Now, how did you plead to those two charges?

25 A. I pled guilty.

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1 Q. And are you, in fact, guilty of those offenses?

2 A. Yes, I am.

3 Q. And was your guilty plea part of a plea agreement?

4 A. Yes, it was.

5 Q. Who was the Prosecutor who handled the charging of  
6 you and handled those plea negotiations?

7 A. U.S. Attorney Richard Blake.

8 Q. Now, as part of that plea agreement, did you agree to  
9 provide information to the Government about the crimes that  
10 you committed and others who were involved in those crimes?

11 A. Yes, I did.

12 Q. And as part that have plea agreement, did you agree  
13 to testify in this trial?

14 A. Yes, I did.

15 Q. Is this the only trial that you've agreed to testify  
16 in?

17 A. No, there could be more.

18 Q. Have you been sentenced yet as a result of that  
19 guilty plea?

20 A. No, I have not.

21 Q. And when do you understand that you will actually be  
22 sentenced?

23 A. Sometime late spring, early summer.

24 Q. And what have you been told is the reason why you  
25 would not be sentenced for another period of time?

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1 A. When I gave my plea agreement, U.S. Attorney Richard  
2 Blake got up and asked for the Court to delay my sentencing  
3 because I had to testify in this trial and other trials.

4 Q. Okay. Without getting into any names, are -- to your  
5 understanding, are there other ongoing investigations based  
6 on the information that you've provided totally separate  
7 and apart from this case?

8 A. Yes, there are.

9 Q. Now, who do you understand will actually determine  
10 your final sentence?

11 A. It will be up to Judge Wells.

12 MR. TRAFICANT: Pardon?

13 THE WITNESS: It'll be up to Judge Wells.

14 Q. And what is your understanding of what Mr. Blake and  
15 the U.S. Attorney's Office has agreed to do in return for  
16 your testimony here and other cases?

17 A. Hopefully, they'll recommend a reduced sentenced.

18 Q. Are you familiar with something called the Sentencing  
19 Guidelines?

20 A. Yes, I am.

21 Q. And what is your understanding, based on your  
22 conversations with Mr. Blake and your lawyer, of the time  
23 under the Guidelines you would have been looking at had you  
24 pled guilty, admitted your responsibility for the acts you  
25 committed, but had said I'm not going to testify in other

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1 cases?

2 A. I would have been a Level 18, according to federal  
3 Sentencing Guidelines, which would have been 27 to 33  
4 months in prison.

5 Q. And what is your understanding of the sentence you  
6 hope to get if all goes well and all of your cooperation in  
7 terms of a recommendation and the Court giving you a  
8 sentence?

9 A. Hopefully, I'll receive a reduced sentence of 10 to  
10 16 months in prison.

11 Q. So as you understand it, what do you personally hope  
12 to gain as a result of your cooperation in terms of months?

13 A. I hope to receive a 10 to 16-month sentence.

14 Q. About 17 months difference than if you hadn't  
15 testified?

16 A. Yes, sir.

17 Q. Now, I would like to ask you some questions regarding  
18 Congressman Traficant. Okay?

19 A. Yes, sir.

20 Q. Turning your attention to the period from 1990  
21 through 1998, did you have much interaction with  
22 Congressman Traficant?

23 A. No. I did not have too much with Mr. Traficant at  
24 all.

25 Q. And what was the primary reason from your standpoint

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1       why you did not have much contact with Congressman  
2       Traficant during that period from 1990 to 1998?

3       A.     He had a very close relationship with my competitor,  
4       who I despised, Tony, Bob, and Dan Bucci. Word on the  
5       street was he was in the bed with them, and you didn't want  
6       anything to do with Congressman Traficant.

7       Q.     You say word on the street. Did there ever come a  
8       time where your company had a personal situation in which  
9       the Congressman intervened, or someone from his office  
10      intervened, on behalf of your competitors, the Buccis?

11      A.     There were several occasions where we were either low  
12      bidder or second bidder, and we should have received the  
13      job because the Bucci brothers could not either start the  
14      job in a timely manner and meet the contract specifications  
15      or they had a bid that was imbalanced. And when I say  
16      imbalanced, an imbalanced bid is when you did a certain --  
17      let's say water on the project, plan water on the project,  
18      and you bid the job for less than what it actually cost you  
19      to perform that, that service, that's called an imbalanced  
20      bid. And on a certain project, they -- they not only  
21      couldn't do the job the way the specifications read; they  
22      had an imbalanced bid.

23      Q.     I'd like to ask you some questions about a particular  
24      project, the 1996 Mahoning County paving project. Are you  
25      familiar with that project?

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1 A. Yes, I am.

2 Q. And who actually got that project awarded to them,  
3 which company?

4 A. At the time, I can't remember if they were called  
5 Prime Contractors or Asphalt Specialist. I think it was  
6 Prime. I'm not sure on that.

7 Q. Regardless of what they were called, whose company  
8 was it, as you understood it?

9 A. That was Tony and Bob Bucci.

10 Q. Did there ever come a time where you and Hardrives  
11 Paving attempted to do anything with regard to that award?

12 A. When I -- when I bid the project, I saw how close the  
13 bids were. I think the project was -- it was -- I think it  
14 was close to half a million, a little bit over. I can't  
15 remember exactly. But -- excuse me for one second.

16 We're talking about the Mahoning County 1996  
17 resurfacing project?

18 Q. Yes.

19 A. Okay. The project was over \$500,000, and I knew  
20 Bucci couldn't start the job on time because he had other  
21 commitments with the state, because he did the bulk of the  
22 state work in our area. So I knew he couldn't fulfill his  
23 specifications. And that with the imbalanced bid, we wrote  
24 a letter to Mahoning County. I believe we sent a copy not  
25 only to County Engineer William Fergus but sent a copy to,



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1 I believe, the Prosecutor's office and the commissioner's  
2 office.

3 And we needed the project. We didn't have that much  
4 work. We wanted to keep our people busy. Bucci was loaded  
5 up with work. And we could have started it right away and  
6 had it completed on time, and we felt that we should have  
7 had the bid. So we started making phone calls, writing  
8 letters to, trying to support our case that we should be  
9 awarded the project.

10 Q. Now, you testified earlier that Mr. Fergus was one of  
11 the people you had bribed. Didn't you have a relationship  
12 with him at that time?

13 A. I had a very close working relationship William  
14 Fergus who was the County Engineer at that time.

15 Q. Did there come a time when you and your company  
16 stopped trying to pursue this contract?

17 A. Yes, there was a time.

18 Q. And at whose request and direction did you stop  
19 trying to get this 1996 Mahoning County paving contract  
20 away from the Buccis?

21 A. A gentleman by the name of Chuck O'Nesti, along  
22 William Fergus, called my office. I wasn't there. They  
23 talked to Edward Pannutti who was vice-president and had --  
24 told him they wanted to have a meeting with him, which Ed  
25 Pannutti attended.

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1 I believe it was at the restaurant in Poland, Ohio,  
2 and at that time, Mr. O'Nesti told Mr. Pannutti to tell  
3 your boss -- he used some explicit language -- that he  
4 better not write any more letters or make any more phone  
5 calls, or there was going to be big problems, and take that  
6 message back to Mr. Sabatine because is at the time I was  
7 in Florida.

8 And when I got back, Mr. Pannutti left the message  
9 and said that Mr. O'Nesti was very, very upset with us, and  
10 so we quit pursuing it.

11 Q. Is that why you quit pursuing it?

12 A. Yes.

13 Q. Now, turning your attention to the year 1998, did  
14 there come a time when you contacted Congressman Traficant  
15 for anything?

16 A. Yes, it was a time.

17 Q. And let me ask you this: At the time that you made  
18 this contact with Congressman Traficant, what was your  
19 understanding of the Buccis' status in the paving industry  
20 at that time when you attempted to contact Congressman  
21 Traficant in 1998?

22 A. I was -- I was -- I probably should use the word  
23 relieved. I don't want to say happy, but I was -- I was  
24 relieved because they were no longer in the business. They  
25 weren't bidding competitively because they bid every

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1 project, quit bidding, and I had heard that they were  
2 selling their operations to somebody. And they were no  
3 longer in the paving business because of the problems they  
4 were having, investigations and so on and so forth.

5 Q. Now, could you describe the situation that led you to  
6 contact Congressman Traficant in 1998?

7 A. I happened to be at an OCA meeting, an organization  
8 that's called Ohio Contractors' Association, which I was  
9 not a member, but I was invited there as a guest, and I  
10 attended the Metroplex, which is a Holiday Inn banquet  
11 facility in Liberty Township, and as I was there,  
12 Mr. Traficant was the guest speaker for the Ohio -- OCA,  
13 and while he was giving his speech, he acknowledged me in  
14 the audience.

15 And he said I see a friend out there in the audience,  
16 Jimmy Sabatine. He's a paving contractor from Youngstown.  
17 He acknowledged me, you know, made me feel important  
18 because there were 200 people there, my peers, contractors  
19 from all over the state, and it was nice that Mr. Traficant  
20 said that about me.

21 Q. Let me ask you this: From the period 1990 until the  
22 time around 1998 when you testified, the Buccis were  
23 getting out of the industry because of their problems, had  
24 Congressman Traficant ever done anything like that to you  
25 before?

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1 A. You're talking from '90 to '98?

2 Q. Yes.

3 A. No. I had no contact with Mr. Traficant.

4 Q. Did you have any further contact with Congressman  
5 Traficant that day after he mentioned you in his speech?

6 A. I was sitting there at the bar, at the Holiday Inn,  
7 and Congressman Traficant came up to me, gave me a little  
8 punch on the shoulder, which he normally did when he  
9 greeted you, and grabbed my cheek and twisted it, a little  
10 Italian greeting, and he was very, very nice to me and  
11 cordial.

12 Q. Okay. Did there come a time where you actually  
13 called his office for help on anything?

14 A. I -- after how nice he treated me at the Holiday Inn,  
15 I wanted to open up an asphalt company in Youngstown and  
16 was having trouble getting the railroad to return my phone  
17 calls, and I was calling Norfolk Southern and another  
18 railroad on a daily basis.

19 Norfolk Southern was the main one because they had  
20 tracks leading to my property where I wanted to put the  
21 plant, and I contacted Claire Maluso who worked for  
22 Mr. Traficant's office, and she put me on the phone with  
23 Congressman Traficant.

24 Q. And what, if anything, did Congressman Traficant tell  
25 you?

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1 A. He said Jim, come on down, pick me up.

2 So I went down to his office and went upstairs. He  
3 made a phone call to Norfolk Southern and had a meeting set  
4 up that day.

5 Q. Did there come a time where you and Congressman  
6 Traficant attended such a meeting?

7 A. We attended the meeting. I believe it was late  
8 morning, early afternoon, at the Perkins Pancake House in  
9 Canfield, Ohio.

10 Q. Okay. And as best you can recall, walk the jury  
11 through what you recall of the discussion that took place  
12 at that meeting, at the Perkins Pancake House that day.

13 A. It was two representatives from the Norfolk Southern  
14 railroad. One was named Rudy -- I want to say Dowe--he  
15 other was Joe Juliano and first time I met these  
16 individuals.

17 And we sat down, and we started discussing them,  
18 giving them a good price on bringing, hauling limestone  
19 into the Youngstown area.

20 Q. Now, after that meeting ended, did you have any  
21 further dealings with Congressman Traficant that day?

22 A. The meeting lasted about two hours, went very well  
23 for me. Mr. Traficant was on my side quite a bit, helping  
24 and got the railroad to, at least, talk and say they'd get  
25 back with me. And Congressman Traficant asked me if I ever

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1       been to his farm, which I hadn't been, and he invited me  
2       out to the farm, which I believe I went up there that day.

3       Q.     Tell us what happened when you and Congressman  
4       Traficant got out to the farm.

5       A.     I went out there, and we were walking around, and he  
6       showed me the barn that was leaning and showed me a tractor  
7       that was broken down and asked me if I had a mechanic that  
8       I could send out to look at it or fix the tractor.

9             And then he showed me the grounds and asked me if I  
10       had a bulldozer, and which I had a bulldozer, and he asked  
11       me some other questions, you know, concerning carpentry  
12       work at his farm.

13       Q.     With respect to -- you said something about a barn  
14       that was --

15       A.     There were a couple structures on the site that were  
16       in badly need of repair, and Mr. Traficant wanted me to  
17       find him a carpenter to come out there and look at it and  
18       fix them.

19       Q.     In addition to those couple buildings that were in  
20       bad need of repair, were there other buildings in better  
21       shape?

22       A.     Oh, yeah, there was -- you know, some new buildings  
23       and some old buildings.

24       Q.     Did you ever attempt to contact a carpenter to have  
25       them come out to the farm to take a look?

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1 A. I contacted a friend of mine named Angelo Delucia who  
2 was a carpenter in the Youngstown area.

3 Q. And what was your purpose in contacting Angelo  
4 Delucia?

5 A. I told him I had a friend that wanted to -- I can't  
6 remember if I said Congressman Traficant. I don't think I  
7 did -- I said I have a friend that needs some work done. I  
8 may have said Congressman Traficant, and can you take a  
9 ride with me?

10 Q. So you're the person that actually set up that  
11 carpenter to come out to the farm?

12 A. Yes.

13 Q. Was there ever any discussion regarding any paving  
14 work?

15 A. There was discussion that Mr. Traficant's driveway  
16 needed paving. He asked me, Number 1, did I do driveways,  
17 and Number 2, could I get his driveway done?

18 Q. Okay.

19 And we're talking about 1998, correct?

20 A. That's correct.

21 Q. Which driveway was he talking about, at which  
22 location?

23 A. He was talking about the one at the farm.

24 Q. Now, as you were discussing these matters with the  
25 Congressman and he was showing you these things that needed

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1 to be done, what was your understanding regarding paying  
2 for such jobs?

3 A. I realized that with my experience in that field that  
4 I wasn't going to get paid.

5 Q. What was it that led you to believe that you weren't  
6 going to get paid for this work you were being asked to do?

7 A. I don't want to say all the time, but normally when  
8 they work for anybody, I don't want to say never, but  
9 people, jobs for people in politics, you didn't get paid.

10 Q. Did he ever ask you what you would charge him to put  
11 in the driveway or to have the carpentry work done or bring  
12 out the bulldozer?

13 A. No.

14 Q. Just based on your own understanding at the time,  
15 were you aware of anyone else who had been out there to do  
16 work under similar circumstances?

17 A. I know that the Bucci brothers were out there. It  
18 was standard word around town they were out working on the  
19 farm, and one of the Bucci brothers, I don't know if it was  
20 true, had a farm next door to Congressman Traficant's. You  
21 know, contractors always were talking about it.

22 Q. Now, what, if any, concerns did you have about  
23 sending your employees out there to do free work at that  
24 time in 1998?

25 A. Well, in 1998, we had just been low bidder on the

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1 Youngstown Airport air base, which was approximately a  
2 known project, and I don't believe we were awarded the  
3 project at that time, but -- could you -- excuse me. Could  
4 you rephrase that question, sir?

5 Q. Yeah. The question is: What, if any, concerns did  
6 you have at that time in 1998 when you were being asked to  
7 do free work out at the farm?

8 A. Well, I knew that -- I knew that I was going to be  
9 investigated myself, and there was word that Mr. Traficant  
10 was being investigated, and with my affiliation of being  
11 low bidder on the airport air base job, I just didn't want  
12 my equipment or my people seen on the Congressman  
13 Traficant's farm doing construction. And I just -- I  
14 didn't want them to be there.

15 Q. As a result of that, what, if anything, did you do?

16 A. Well, at a later date when I was out at the farm,  
17 doing things with Congressman Traficant concerning the barn  
18 and certain things out there, I gave him \$2400. I said  
19 here's a little campaign contribution, and I walked away.

20 Q. Why did you feel the need to give Congressman  
21 Traficant \$2400?

22 A. He was -- he was helping us with the railroad, and  
23 when he pointed out to me the things that needed to be done  
24 on the farm, I just didn't want to get involved with that  
25 situation. So I figured I'd be better off giving him the

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1       \$2400 and try to get out of it.

2       Q.     You said trying to get out of it, out of what?

3       A.     Try to go get out of doing any type of work, whether  
4       it be paving of the driveway, fixing of the equipment, or  
5       the other work, carpentry that we talked about.

6       Q.     In your mind, how did the \$2400 compare to what you  
7       thought it might cost you if you started doing work out at  
8       the farm?

9       A.     You mean the construction for \$2400? I had the  
10      figures in my head, and I said to myself, you know, this is  
11      going to cost me, I'm better off just -- at the time, I  
12      called it a campaign contribution, and I -- I gave it to  
13      him, and I figured I was a lot better off than going out to  
14      try to bring my people out to perform the services.

15      Q.     What form did you give him this money?

16      A.     \$2400 cash.

17      Q.     And where did you give him this money?

18      A.     The Congressman was in the stall, maybe not on -- he  
19      was leaning on -- inside the stall, and I looked around and  
20      nobody happen to be around, and I just walked up to him and  
21      handed the \$2400, put it in his hand and said here's a  
22      little campaign contribution. At that time, I walked away.

23      Q.     What was your concern that led you to give him \$2400,  
24      what were you worried about?

25      A.     Well, I mean Congressman Traficant, because of his

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1 position, I just -- I didn't want to get hurt from him, not  
2 that he would have hurt me, but I just felt in my mind he  
3 wanted this work done, and I was a lot better off giving  
4 him the \$2400 than having my people stay there and perform  
5 the services on the farm.

6 Q. How busy were your people and your company at that  
7 time?

8 A. I mean we weren't really busy because we wanted to  
9 make sure we had the time just to start the air base if  
10 they awarded us the project.

11 THE COURT: We're getting some feedback, and I  
12 think if you'd hold the mike a little further out, we may  
13 lose the feedback. I don't know.

14 THE WITNESS: Yes, your Honor.

15 THE COURT: Okay. Thanks.

16 BY MR. MORFORD:

17 Q. Prior to this \$2400 cash payment, had you -- have you  
18 ever made campaign contributions to any of Congressman  
19 Traficant's campaigns?

20 A. Yes, I did.

21 Q. And in what form did you make those prior  
22 contributions?

23 A. I would normally give a check to one of the staffers,  
24 Claire Maluso, somebody who was handling one of the --  
25 whether it be a golf outing or whatever.

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1 Q. Have you ever given a cash contribution?

2 A. Not to that point, I hadn't.

3 Q. Did you actually consider this \$2400 to be a campaign  
4 contribution?

5 A. No.

6 Q. In your mind, what was it?

7 A. A bribe.

8 Q. And what was your primary motivation for giving  
9 Congressman Traficant this \$2400 cash?

10 A. I just didn't want to perform the services at the  
11 farm, and that was my way of trying to pay him back for the  
12 favor that was done.

13 Q. How did it finally work out with the railroad? Did  
14 you have subsequent meetings to the first meeting at  
15 Perkins?

16 A. We had several meetings. Probably -- probably at  
17 least a dozen meetings where I went to Virginia, met with  
18 the powers to be at Norfolk Southern Railroad. Joe Juliano  
19 came over to my house, where we had dinner. We went to  
20 several restaurants and -- but, it never came to fruition  
21 that the railroad actually delivered stone to our plant.  
22 We never could work out a price where it would be  
23 advantageous for me to put the railroad in.

24 MR. MORFORD: May I have just a moment, your  
25 Honor?

## Sabatine - Cross

1 MR. MORFORD: I have nothing further.

2 THE COURT: Thank you. Congressman

3 CROSS-EXAMINATION OF JAMES SABATINE

4 BY MR. TRAFICANT:

5 Q. How are you doing, Jimmy?

6 A. Pretty good, Congressman. How about yourself?

7 Q. I could be doing better.

8 You say that I was in bed, and that was the word on  
9 the street with the Buccis, right?

10 A. Yes, sir.

11 Q. Was I related to you?

12 A. No.

13 Q. Isn't it a fact that your wife's brother married my  
14 first cousin?

15 A. I knew there was a relation there. I don't know that  
16 you were first cousins.

17 Q. You didn't talk with your brother-in-law, you had  
18 such a powerful Congressman?

19 A. I knew there was a relationship, but I didn't know if  
20 it was first or second cousins.

21 Q. What is my -- what is your brother-in-law's name?

22 A. I have several brother-in-laws Congressman.

23 Q. Who's married to Joy?

24 A. Russell.

25 Q. And who is Russell a brother of?

## Sabatine - Cross

- 1 A. He's a brother of Joe.
- 2 Q. And who else?
- 3 A. Anthony.
- 4 Q. And who else?
- 5 A. George.
- 6 Q. And who else?
- 7 A. Phillip.
- 8 Q. And who else?
- 9 A. Anthony.
- 10 Q. How about your wife?
- 11 A. My wife is a sister.
- 12 Q. How long had your brother-in-law been married to your  
13 sister?
- 14 A. How long has my brother-in-law been married to my  
15 sister?
- 16 Q. You're talking to me. I thought I asked the  
17 question. How long was your brother-in-law, to the best of  
18 your knowledge, married to your sister? When did they get  
19 married?
- 20 A. My brother-in-law was married to my sister I believe  
21 for about six years, five years. You're talking about my  
22 sister, not my sister-in-law, my sister?
- 23 Q. No, I'm talking about Russell Saadey, Junior, and  
24 Joy. How long have they been married?
- 25 A. They've been married for about 19 years, I'd say 20

## Sabatine - Cross

1 years.

2 Q. Okay. And this is 2000. So that means in the early  
3 80's, they got married, right?

4 A. That's correct.

5 Q. And your brother-in-law is first cousin -- your  
6 brother-in-law's wife was my first cousin; is that right?

7 A. I knew there was a relationship. I knew they were  
8 cousins, but I don't know how close it was.

9 Q. And you thought I was a powerful figure?

10 A. Positively.

11 Q. And I was in bed with the Buccis?

12 A. Positively.

13 Q. And they were killing you?

14 A. Repeat that, Congressman.

15 Q. And they were killing you in the business world?

16 A. Well, I don't want to use the word killing me. They  
17 were -- they were very competitive and causing me problems  
18 wherever they could.

19 Q. And you never asked your brother-in-law to say hey,  
20 why don't you put a meeting together, have Jim come over,  
21 and have lunch or dinner, did you ever do that?

22 A. No, I never did that because I think there was a  
23 problem there with you and my brother-in-law.

24 Q. Wasn't it a fact that your brother-in-law and I were  
25 close friends and then did have a problem?

## Sabatine - Cross

1 A. I know that you were very close friends, and I know  
2 that after you got elected, that there was a problem.

3 Q. But, weren't you in business at that time?

4 A. Yes, I was in business at that time.

5 THE COURT: I think we should try to do  
6 something with the sound system. I don't know about anyone  
7 else, but it's making a lot of noise. Lynn, can you work  
8 on it?

9 THE CLERK: Yes.

10 MR. TRAFICANT: Can you hear me?

11 THE WITNESS: Yes, Congressman, I can hear  
12 you perfectly.

13 BY MR. TRAFICANT:

14 Q. Now, I have a number of questions for you. They  
15 talked about a plea agreement. What exactly did you plead  
16 to?

17 A. I pled to a tax charge, a RICO charge.

18 Q. Who were the co-conspirators in the RICO charge?

19 A. Edward Pannutti, Chris Minor.

20 Q. And they were whom?

21 A. Employees.

22 Q. Isn't it a fact you gave \$20,000 over the years to  
23 Bill Fergus, Mahoning County Engineer?

24 A. At least.

25 Q. Did you ever wonder why you weren't charged with

## Sabatine - Cross

1 conspiracy with an engineer rather than one of your  
2 employees?

3 A. I just knew that I did something wrong and I didn't  
4 really dwell on it.

5 Q. Isn't it a fact that would have carried a 20-year  
6 prison sentence if you had been charged with conspiracy for  
7 bribing a Mahoning County engineer for millions of dollars  
8 of work?

9 A. Congressman, we did always on low bid projects that  
10 we bid.

11 Q. Why did you have to give him one to \$2000 a month?

12 A. Really wasn't any specific time period we had to give  
13 him one or \$2000.

14 Q. Were you interviewed by the FBI?

15 A. Yes.

16 Q. Are you saying you didn't tell the FBI you didn't  
17 give one to \$2000 a month to Bill Fergus?

18 A. I don't think it was per month. It was one or \$2000  
19 at various times.

20 Q. Wasn't it a fact that you had stated you'd given in  
21 excess of \$20,000 to Bill Fergus, publicly?

22 A. I believe the \$20,000 was just on the Meridian  
23 project.

24 Q. That was on the Meridian project?

25 A. Yes.

## Sabatine - Cross

1 Q. So in addition to the one or \$2000 a month, you gave  
2 \$20,000 on Meridian project?

3 A. That's correct.

4 Q. Were there other projects where you'd give him chunks  
5 of cash?

6 A. No, just one or \$2000 that Mr. Fergus would hand me a  
7 bunch of tickets where I would pay for them.

8 Q. Okay. So let's now go down a little bit of a list if  
9 we could.

10 Did you, in fact, bribe an employee by the name of  
11 Dick Smith in Mahoning County Engineer'S Office with  
12 Mr. Fergus?

13 A. Yes.

14 Q. How much you give him?

15 A. A couple thousand.

16 Q. And what did he do for you?

17 A. He was Fergus' right hand man. He was on the paver  
18 with the -- while the road was going on.

19 Q. Isn't it a fact he allowed you to submit bogus  
20 tonnage slips?

21 A. Yes.

22 Q. Ripping off the county for much money?

23 A. Yes.

24 Q. Isn't it a fact you gave a Mahoning County road  
25 inspector by the name of James Lewchinski in excess of

## Sabatine - Cross

1 \$5,000 in bribes?

2 A. That is correct.

3 Q. What was his job?

4 A. He was O'Nesti's son-in-law, and he was an inspector  
5 for Fergus on the -- most of the road projects in Mahoning  
6 County at that time.

7 Q. Did you not, in fact, bribe a road superintendent in  
8 Struthers between '95 and '96 of \$20,000?

9 A. That is correct.

10 Q. And did you not, in fact, have him submit bogus  
11 asphalt tickets for you?

12 A. That is correct.

13 Q. Did you not give tickets to ball games to local  
14 politicians?

15 A. Yeah, we gave a lot of Cleveland Indians tickets to  
16 inspectors.

17 Q. Did you ever give me one? You're under oath?

18 A. I don't recall ever giving you baseball tickets,  
19 Congressman.

20 Q. Did you ever give labor leaders money to help solve  
21 some of their labor problems?

22 A. There was a -- there was a loan to a labor leader at  
23 one time.

24 Q. A loan?

25 A. Yes, it wasn't to solve any labor problems, it was

## Sabatine - Cross

1 just a loan.

2 Q. Did you ever bury a horse at my farm?

3 A. I -- I personally didn't do it, but somebody from my  
4 company did.

5 Q. What year was that?

6 A. It was in the -- it was it in the late 80's.

7 Q. If I was in the bed with the Buccis, why wouldn't I  
8 call the Buccis to bury the horse? You know who called  
9 them?

10 A. You had George Buccella call.

11 Q. How do you know I had him call?

12 A. That's what he explained to me on the telephone.

13 Q. Did you pay a man by the name of Frank Lentine in  
14 excess of \$10,000 to obtain street projects in Trumbull  
15 County?

16 A. I didn't pay Frank Lentine \$10,000. I gave him a  
17 couple thousand. I don't know if it was four or five. It  
18 wasn't -- I don't think it was \$10,000.

19 Q. Was it four or five?

20 A. I don't know exactly what it was for.

21 Q. Could you describe to the jury who Frank Lentine is  
22 back home?

23 A. Frank Lentine is in the vending business in Campbell,  
24 Ohio, and at a time, was associated with the -- supposedly  
25 with the underworld.

## Sabatine - Cross

- 1 Q. I didn't hear you.
- 2 A. Supposedly associated with the underworld.
- 3 Q. Would you say the mob, organized crime?
- 4 A. I would say the mob or organized crime.
- 5 Q. That's a yes?
- 6 A. That's a yes.
- 7 Q. Did you, in fact, pay \$10,000 in cash bribes to a  
8 road inspector in Austintown?
- 9 A. Over a period of years, yes.
- 10 Q. And did they give bogus slips?
- 11 A. Yes.
- 12 Q. Did you, in fact, after that party was replaced, give  
13 \$2000 to his replacement for bogus asphalt slips?
- 14 A. Yes.
- 15 Q. Did you in fact give a person by the name of Mike  
16 from Champion Township several thousand dollars to allow  
17 you to add bogus slips?
- 18 A. I don't know if it was several, but we gave them --  
19 we gave them money. I can't remember if it was a thousand.
- 20 Q. Did you pay the Warren Dance Affair \$2500 in cash  
21 bribes for extra work associated with the Sayrap Brown  
22 Agency?
- 23 A. Yes.
- 24 Q. Did you pay cash bribes totaling in excess of \$2000  
25 to a Weathersfield Township road inspector?

## Sabatine - Cross

1 A. Yes.

2 Q. Did they give you bogus slips?

3 A. I don't believe so. And it wasn't so.

4 Q. Did you, in fact, give \$5,000 to the mayor of New  
5 Castle Pennsylvania?

6 A. Yes.

7 Q. And did they, in fact, allow you to submit bogus  
8 asphalt slips?

9 A. No, no.

10 Q. You're saying no?

11 A. No.

12 MR. TRAFICANT: I have to find the page, your  
13 Honor. Quite frankly, I've been going here so fast -- I'll  
14 come back to that.

15 Q. But you did bribe the mayor of New Castle; is that  
16 right?

17 A. We gave him cash.

18 Q. How much?

19 A. I believe it was \$5,000 or \$2500.

20 Q. Did you ever give any money to anybody at the  
21 Mahoning County Sanitation Department?

22 A. Not that I can -- not that I can recall, no.

23 Q. Did you ever hire a man by the name of Tom Williams  
24 that used to work for ODOT?

25 A. Yes, I did.

## Sabatine - Cross

1 Q. Now, when you said you gave this \$2400, you said I  
2 was leaning in a stall?

3 A. You were -- you weren't on your knees, but you were  
4 bending down.

5 Q. What barn was it?

6 A. It was one of the stalls in the barn.

7 Q. What barn?

8 A. I didn't know, you know, specific name of it.

9 Q. Was there a horse in the barn?

10 A. There was not in the specific one that you were in,  
11 but there was horses right around where you were.

12 Q. What was the floor like?

13 A. Like all the barns that day, there was straw in some  
14 of them, some was slag, some -- they were all different.

15 Q. Uh-huh.

16 Did the stalls have fronts on them?

17 A. I believe when you were kneeling down, it was either  
18 a gate that was open, I mean, I could see real plain you  
19 were about 25, 30 feet away from it, and you were -- I  
20 could see where you were positioned and everything about  
21 you.

22 Q. Um-hum. Did the Government tell you that if you  
23 didn't take this plea agreement, you were going to go to  
24 jail for 20 years for your conspiracy with Fergus and  
25 others, and they were going to take every dime you owned,

## Sabatine - Cross

1 every penny? Yes or no. You're under oath.

2 A. No.

3 Q. Did you ever tell that to anybody?

4 A. No.

5 Q. Did you ever tell anybody that you did not bribe Jim  
6 Traficant?

7 A. No.

8 Q. How many years did you make campaign contributions to  
9 me?

10 A. Several.

11 Q. Would there be records?

12 A. It would be cancelled checks on the ones where I did  
13 give you the contribution.

14 Q. You never sold any tickets or bought any tickets?

15 A. Oh, yeah, I sold tickets also for you.

16 Q. Well, then, why if you were handling money would you  
17 say it was campaign contribution? Why would you have to  
18 have done that? Why didn't you say, here, Jim, we're out  
19 here on business, man, I want you to help me. Here's  
20 \$2400.

21 A. Normally, somebody from your staff would come. You  
22 never came personally and asked for money.

23 Q. Pardon?

24 A. I said normally somebody from your staff would  
25 contact us.

## Sabatine - Cross

1 Q. Relative to what?

2 A. Relative to a function or some type of event that you  
3 were having, that you were trying to raise money for your  
4 campaigns.

5 Q. But you said it was your impression that it was a  
6 bribe. Didn't you say that?

7 A. It was my impression that it was a bribe.

8 Q. What was it that you said it was?

9 A. I told you when I handed you the money, I said here's  
10 a little campaign contribution for you.

11 Q. And was it outside the barn or when I was leaning  
12 inside the barn?

13 A. It was inside the barn, inside a stall.

14 Q. Okay. What was the floor of this stall made out of?

15 A. It was various surfaces, slag.

16 Q. How big was the stall?

17 A. Well, you were standing, I would say it was probably  
18 around 20 by ten, maybe smaller. We -- that day we walked  
19 around your whole -- we were walking around constantly. I  
20 can't remember exactly.

21 Q. You don't remember what barn it was, right?

22 A. No, I don't remember -- I remember -- if I went out  
23 to your farm, I could tell you what barn it was, but I  
24 don't remember from the way you're describing it right now,  
25 no.



## Sabatine - Cross

1 Q. Well, what was the floor in the barn like?

2 A. I believe there was some slag. I believe there was  
3 some straw, various surfaces.

4 Q. Was it a big barn or small barn?

5 A. Pretty good size barn.

6 Q. You say it was slag or straw, right?

7 A. It could have been any. To tell you the truth, I  
8 wasn't paying attention to what was on the floor in the  
9 barn.

10 Q. Did you bribe the Columbiana County road inspector?

11 A. I gave a set of golf clubs to a Columbiana County  
12 road inspector.

13 Q. Did you ever create another company to hide any of  
14 your assets or any of your equipment?

15 A. We created a company to do private work and separate  
16 from our company that did the prevailing wage rate work.  
17 So I guess the answer would be, yes, I created another  
18 company.

19 Q. Now, when you went bankrupt, did you lose all your  
20 equipment?

21 A. I didn't go bankrupt.

22 Q. You're still in business?

23 A. No. I sold the asphalt plant only to a company from  
24 Zanesville, Ohio.

25 Q. Did the company have a forfeiture clause on you for

## Sabatine - Cross

1 taking any of your money?

2 A. You have to ask my attorney that.

3 Q. You signed the plea agreement.

4 A. You're talking about when I sold the asphalt company?

5 Q. When you signed the plea agreement with the  
6 Government, did they tell you they were going to take your  
7 properties?

8 A. No.

9 Q. Is it a fact that Bill Fergus is in jail?

10 A. I don't think he is. I saw him -- I saw him out  
11 several times.

12 Q. He's out now?

13 A. He was out about nine months ago. I don't know if  
14 he's out --

15 Q. It's your testimony that the Government chose to  
16 charge you with conspiring with two of your co-workers on a  
17 conspiracy charge that would be an a 27-month sentence?

18 MR. MORFORD: Objection. That's -- there's  
19 no basis for that question. That's not what the testimony  
20 was.

21 THE COURT: Correct.

22 Q. Was that the plea agreement after 27 months?

23 THE COURT: Excuse me. You have to ignore it  
24 when it comes from there, and listen to the evidence from  
25 here.

## Sabatine - Cross

1 Q. Are you aware of your plea agreement?

2 A. Yes, I am.

3 Q. What's the maximum time you would have spent with the  
4 plea agreement?

5 A. The maximum time was originally 27 to 33 months.

6 Q. And with the reduced sentence, what is it?

7 A. Now, it's ten to 16 months.

8 Q. And they will take none of your property?

9 A. I have monies that I owed to the IRS, which I guess  
10 they're tallying up the figure that I have to pay.

11 Q. Did the Government say they were going to forfeit on  
12 foreclosing any of your properties?

13 A. Not that I know of.

14 Q. Isn't it a fact that the Government asked you and  
15 withheld sentencing so that you can come in here and say  
16 you gave me a \$2400 bribe, Mr. Sabatine?

17 A. That's not true. They came, asked me to come in here  
18 and tell the truth, which I'm doing.

19 Q. You don't even know the surface of the barn floor,  
20 sir.

21 A. You know what color was in my house when you came  
22 over my house?

23 Q. I didn't come in your house. I'm not on the stand.  
24 But if I did come over to your house, when was it?

25 A. You were at my house in the 80's when you were

## Sabatine - Cross

- 1 running for Congress.
- 2 Q. Oh, well, I was in bed with the Buccis, wasn't I?
- 3 A. This was before you were in with the Buccis.
- 4 Q. Oh.
- 5 When were you at the farm?
- 6 A. I was at the farm in 1998.
- 7 Q. How many years ago is that?
- 8 A. This is 2002, so three or four years ago.
- 9 Q. How many years would it be since if, in fact, I was
- 10 in your house in 1984?
- 11 A. I can't remember if it was '84 or '83 or '85 when you
- 12 were in my house, but you were positively in my house.
- 13 Q. Was I a candidate for sheriff or Congress?
- 14 A. Congress.
- 15 Q. So you would say it would be approximately 1984?
- 16 A. I'd say it was approximately.
- 17 Q. How many years ago was that?
- 18 A. It was 18 years ago.
- 19 Q. You consider me the most powerful politician in
- 20 Mahoning County?
- 21 A. Positively.
- 22 Q. And you gave assistant road inspectors five or \$6,000
- 23 in bribes?
- 24 A. Yes.
- 25 Q. Isn't it a fact that nearly every worker that worked

## Sabatine - Cross

1 for you has complained about you and the way you run your  
2 company and the way you treated them?

3 A. The majority of our employees have been with us for  
4 15 to 17 years.

5 Q. Have you had many employees that complained about it?

6 A. You always have people that are never satisfied with  
7 what you're doing for them or what they're doing for you.

8 Q. Didn't you just testify that you didn't pay  
9 prevailing wages?

10 A. There was times that we didn't pay prevailing wages.

11 Q. Did you have a two tier labor contract?

12 A. No, I did not.

13 Q. Did you have a contract with the Teamsters?

14 A. We had a contract with the Teamsters when we did work  
15 at certain places like General Motors, places like that.

16 We had contracts with the other two unions, though.

17 Q. Well, then, tell me this, Mr. Sabatine: Why didn't  
18 you just say look, Jim, we know what's going on here.

19 Here's \$2400 to fix this place up. I don't want to bring  
20 my trucks out.

21 A. When I gave you the \$2400, I mean, I didn't want to  
22 make it look I'm bribing you or anything like that. I just  
23 didn't want to go out and do any work for you. I didn't  
24 want my equipment on the farm, and I thought that was the  
25 easiest way to get out of it.

## Sabatine - Cross

1 Q. But you testified you bribed me. What, if anything,  
2 did I ever do for you?

3 A. Well, you -- you helped me with the railroad.  
4 Without your help, I wouldn't have got the railroad to talk  
5 to me and enter into negotiations with me concerning  
6 bringing limestone into Youngstown.

7 Q. Did we discuss the cost of limestone?

8 A. Yes, we did.

9 Q. You remember that discussion?

10 A. I remember it.

11 Q. Who initiated it?

12 A. Well, I would have initiated it, the cost of  
13 limestone, because you had no idea what the cost was.

14 Q. Now, in this fraud minority contractor, did you give  
15 that minority contractor bribes?

16 A. No.

17 Q. How, in fact, did you satisfy the minority contractor  
18 that you used?

19 A. We would always make sure that she made 5 to 10  
20 percent profit over and above everything.

21 Q. Isn't it a fact that you had told the FBI that you  
22 always maintained sometimes up to four or \$5,000 on your  
23 person?

24 A. I always had several thousand dollars in my  
25 possession as being in that type of business. It was

Sabatine - Cross

1 always things that you would need cash for.

2 Q. Did you, in fact, bribe any other public officials  
3 that haven't been named here?

4 A. Not that I can recall.

5 Q. When, to the best of your knowledge, did they talk  
6 about sentencing you, Mr. Sabatine?

7 A. From speaking to my attorney, he always led me to  
8 believe it was late spring, early summer, in that time  
9 frame.

10 Q. Did you pay cash for campaign tickets for Trumbull  
11 County other to David Hines?

12 A. I believe we gave him a check, but I'm not positive  
13 on that.

14 Q. You still have those 302s?

15 MR. MORFORD: Can we have a page?

16 MR. TRAFICANT: Page 16, transcribed 4-26-01.  
17 Mine's not clean.

18 THE COURT: Well, mine is.

19 MR. TRAFICANT: You tell us when you want to  
20 stop, your Honor, with the jury because I have more  
21 questions of this witness.

22 THE COURT: Okay. Which part are you going  
23 to ask him about?

24 MR. TRAFICANT: I'm going to have him to read  
25 Paragraph 2.

1 THE COURT: Hold on. This doesn't appear to  
2 be inconsistent, so you wouldn't be able to use this.

3 MR. TRAFICANT: You mean, it's not  
4 inconsistent?

5 THE COURT: Right.

6 MR. TRAFICANT: So I can't give this to him?

7 THE COURT: No. I think it will be time to  
8 close for the day. We can talk about this here without the  
9 jury hearing it. As long as you're going to have more  
10 questions of this witness, we'll bring him back.

11 We're going to recess until tomorrow morning; usual  
12 time for you, 9:00 we'll be in the box, and so enjoy your  
13 nicer weather, and remember all your admonitions and go on  
14 with your lives. Thank you.

15 (Proceedings in the absence of the jury:)

16 THE COURT: You want to do this at 8:30 in  
17 the morning, Congressman?

18 MR. TRAFICANT: I want to do it now.

19 THE COURT: Okay.

20 MR. TRAFICANT: Paragraph 2, Sabatine paid  
21 \$500 to \$1,000 in cash.

22 THE COURT: Right. But listen to his  
23 testimony.

24 MR. TRAFICANT: I asked him if he paid in  
25 cash --

1                   THE COURT: I understand that, but you have  
2                   to listen to his answer, too, because he's the one we're  
3                   looking at to see whether he's saying something consistent  
4                   or not consistent, so hold on. Let me go back and see  
5                   that. His testimony said -- you said, did you pay cash for  
6                   campaign tickets in Trumbull County other than to David --  
7                   and I can't read the Court Reporter's notes.

8                   MR. TRAFICANT: Other than David Hines.

9                   THE COURT: I think that's what it's going to  
10                  be. I believe we gave him a check, but I'm not positive of  
11                  that.

12                  MR. TRAFICANT: He says he believes he gave  
13                  him a check.

14                  THE COURT: But he's not positive.

15                  MR. TRAFICANT: I'm refreshing his memory.  
16                  Do I not have the right?

17                  THE COURT: Well, you do have the right to  
18                  refresh his memory, if that's what you're going to do. I  
19                  thought --

20                  MR. TRAFICANT: I want to impeach the  
21                  witness.

22                  THE COURT: Well, that's why I brought it up.  
23                  I think we need to talk about it because you impeach him  
24                  with something that's inconsistent.

25                  MR. TRAFICANT: All right. Here's what I'm

1 saying. We're talking about campaign contributions,  
2 checks, campaign contributions, cash.

3 THE COURT: Right.

4 MR. TRAFICANT: He admits that he gave \$1,000  
5 in cash for campaign tickets for Auditor Hines in Trumbull  
6 County. I believe under cross-examination I have that  
7 right, and it clearly shows that this man dealt with cash,  
8 bought tickets in advance, buys tickets, sells tickets.  
9 Part of my defense is being limited on something --

10 THE COURT: We have -- we must let the jury  
11 go through.

12 (Pause.)

13 THE COURT: Mr. Traficant, this is a 302.  
14 This is an agent's statement. The agent is not on the  
15 stand.

16 MR. TRAFICANT: Your Honor, are you saying an  
17 FBI agent's words can be mistaken? Let's look at Paragraph  
18 3. Sabatine paid cash bribes totaling blah, blah, blah,  
19 also made Dave Robinson's campaigns.

20 THE COURT: I would -- I would suggest that  
21 you spend some time this evening going over the Rules of  
22 Evidence that relate to this because we've gone over this  
23 issue of whether or not you can use 302s in many different  
24 forms.

25 MR. TRAFICANT: Your Honor, you have let 302s

1 be read in the record.

2 THE COURT: There are circumstances under  
3 which they can be used.

4 MR. TRAFICANT: The point is this man told  
5 the FBI that he made \$500 to \$1,000 in cash contributions  
6 to an auditor in Trumbull County. Now, when I talked to  
7 him, he said he made his campaign contributions by checks.  
8 Clearly --

9 THE COURT: This testimony was, "did you pay  
10 cash for campaign tickets for Trumbull County? I believe  
11 we gave him a check, but I'm not positive on that." That's  
12 not -- that's not a yes or a no answer.

13 MR. TRAFICANT: But, you see, the jury does  
14 not know that, in fact, he did give cash. And did give  
15 cash for campaign contributions. And I believe you limit  
16 my defense again by failing to impeach the veracity of  
17 these witnesses.

18 MR. MORFORD: Your Honor, as this Court has  
19 pointed out many times, this is one of the perils that  
20 Congressman Traficant has chosen to undergo by not hiring a  
21 lawyer who knows these rules. The rule is, as this Court  
22 has explained to him on several times, several occasions,  
23 that he can ask the witness isn't it true you paid \$500 to  
24 \$1,000 in cash to campaign tickets from Trumbull County  
25 Auditor David Hines, and if the witness says, I don't

1 remember that, or I don't think so, or in this case, say  
2 something that's not inconsistent, say might it refresh  
3 your recollection if I show you a document, he can show him  
4 any document. He can have him read that paragraph, not  
5 tell the jury what the document is but have him read that  
6 paragraph and say does that refresh your recollection.

7 THE COURT: He reads it to himself. We've  
8 done this before. He reads it to himself. It may or may  
9 not remind him of something, and at that point, you may or  
10 may not have refreshed his recollection, but he doesn't  
11 read it to the jury. But I believe that you were trying to  
12 do something different than refresh recollection.

13 I think what you seem to be trying to do is to  
14 impeach him, and in order for something to be used to  
15 impeach him, you have to start with the fact that something  
16 he said -- this is a report by somebody else of what they  
17 said, and it also is not inconsistent.

18 MR. TRAFICANT: Your Honor, this speaks  
19 direct to the case, and I want to speak on two issues. If  
20 I had an attorney, I wouldn't have a chance in this case,  
21 Number 1. Number 2, I am not doing too damn bad.

22 THE COURT: That's true, you're doing pretty  
23 well.

24 MR. TRAFICANT: I tell you right now I'm very  
25 comfortable and confident in the counsel that I have. You

1       have stopped me at a critical time by releasing this jury  
2       early where I was moving in that direction, but as soon as  
3       I move in a direction, I even showed you the document, you  
4       took a side bar, let the jury go, gave this guy a whole  
5       night to think about it, and I -- for the record, I object  
6       to that.

7                       THE COURT: Well, you can.

8                       MR. TRAFICANT: I believe you are limiting my  
9       cross-examination of witnesses.

10                      MR. MORFORD: Your Honor, my objection is  
11       this: Every time there is a ruling that is consistent with  
12       the Federal Rules of Criminal Procedure, Congressman  
13       Traficant either doesn't understand or claims he doesn't  
14       understand. He then suggests that the Court's being  
15       unfair, and all I'm saying, the rules are what the rules  
16       are.

17                      He's been told how to use those rules. We have no  
18       problem with him asking those questions or refreshing the  
19       witness' recollection or later calling Agent Pikunas to say  
20       what he recalls this witness saying to Agent Pikunas, but  
21       what he can't do is hand this witness Agent Pikunas'  
22       statement and have this witness read it as though he said  
23       it.

24                      And you've made that point many times in this case.

25                      THE COURT: Okay. We're not going --

1 MR. TRAFICANT: I want to respond.

2 THE COURT: Excuse me. We're not going to  
3 argue it any more. It's 4:30, and this Court is adjourned.  
4 See you 9:00 tomorrow morning.

5 MR. TRAFICANT: I would like to take this up  
6 in the morning.

7 THE COURT: We won't be talking about the  
8 same thing again in the morning.

9 MR. TRAFICANT: Well, you allowed 302s to be  
10 read in the record.

11 THE COURT: Sir, we will begin tomorrow  
12 morning and with you continuing with this witness. And I  
13 expect you to do what you can to get your self clearer than  
14 you seem to be about how to do it properly.

15 MR. TRAFICANT: I think I'm very clear.

16 THE COURT: Good.

17 (Proceedings adjourned.)

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1 DIRECT EXAMINATION OF THOMAS WILLIAMS ..... 2278

2 CROSS-EXAMINATION OF THOMAS WILLIAMS..... 2291

3 DIRECT EXAMINATION OF DAVID DREGER..... 2326

4 CROSS-EXAMINATION OF DAVID DREGER..... 2339

5 REDIRECT EXAMINATION OF DAVID DREGER..... 2373

6 RE-CROSS-EXAMINATION OF DAVID DREGER..... 2374

7 DIRECT EXAMINATION OF EDWARD PANNUTTI..... 2383

8 CROSS-EXAMINATION OF EDWARD PANNUTTI..... 2394

9 DIRECT EXAMINATION OF RUFUS DOWE..... 2397

10 CROSS-EXAMINATION OF RUFUS DOWE..... 2406

11 DIRECT EXAMINATION OF ANGELO DELUCIA..... 2417

12 CROSS-EXAMINATION OF ANGELO DELUCIA..... 2422

13 DIRECT EXAMINATION OF JAMES SABATINE..... 2427

14 CROSS-EXAMINATION OF JAMES SABATINE..... 2454

C E R T I F I C A T E

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16 I certify that the foregoing is a correct

17 transcript from the record of proceedings in the

18 above-entitled matter.

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